



## FINAL AGENDA

FORREST C. SOTH CITY COUNCIL CHAMBER  
4755 SW GRIFFITH DRIVE  
BEAVERTON, OR 97005

REGULAR MEETING  
APRIL 10, 2006  
6:30 P.M.

CALL TO ORDER:

ROLL CALL:

PROCLAMATIONS:

National Library Week: April 2-8, 2006

Records and Information Management Month: April 2006

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

WORK SESSION:

06051 Washington County Cooperative Library Services Provision of Internet Filtering

06052 Current Investment Practices and Proposal to Use Non-Discretionary Investment Advisory Services

CONSENT AGENDA:

Minutes of the Regular Meeting of March 20, 2006

06053 Liquor Licenses: New Outlet - El Ranchito Alegre III; Sushitime.  
Change of Ownership - El Perilo Y Taqueria. Additional Privilege - Mingo.  
Change of Ownership & Greater Privilege: Hakatamon Japanese Restaurant; Yuzu Japanese Restaurant

06054 Boards and Commissions Appointment - Carmen Gobel to Citizens with Disabilities Advisory Committee

06055 Boards and Commissions Appointment - Ruben Medina, Jr., to Human Rights Advisory Commission

06056 Authorize Intergovernmental Agreement with Washington County Cooperative Library Services to Provide Internet Filtering

- 06057            Classification Changes
- 06062            Approval of City Assistance for the Merlo Station Affordable Housing Project

Contract Review Board:

- 06047            Contract Award - Non-Discretionary Investment Advisory Services  
(Rescheduled from March 20, 2006 Meeting)

ORDINANCES:

First Reading:

- 06058            An Ordinance Amending Ordinance 4187, The Comprehensive Plan, to Clarify that the Tualatin Hills Park and Recreation District (THPRD) is the Primary Parks and Recreation Provider for the Citizens of the City of Beaverton, CPA 2005-0008 (Ordinance No. 4387)
- 06059            An Ordinance Amending Ordinance 2050, The Development Code, to Require Properties Applying for Certain Land Use Approvals to Annex to Tualatin Hills Park and Recreation District (THPRD) and Providing a Waiver Provision, TA 2005-0009 (Ordinance No. 4388)
- 06060            TA 2006-0001 Scoreboard Sign (Ordinance No. 4389)
- 06061            An Ordinance Supplementing Ordinance No. 4270 (Amended and Restated Master Water Revenue Bond Ordinance) and Authorizing the Issuance, Sale, Execution and Delivery of Water Revenue Bonds, in One or More Series, in an Aggregate Principal Amount Not to Exceed \$15,000,000; Related Matters; and Declaring an Emergency (Ordinance No. 4390)

Second Reading:

- 06050            An Ordinance Amending Chapter 5.05 of the Beaverton Code Regarding Vacant Buildings (Ordinance No. 4386)

EXECUTIVE SESSION:

In accordance with ORS 192.660 (2) (h) to discuss the legal rights and duties of the governing body with regard to litigation or litigation likely to be filed and in accordance with ORS 192.660 (2) (e) to deliberate with persons designated by the governing body to negotiate real property transactions and in accordance with ORS 192.660 (2) (d) to conduct deliberations with the persons designated by the governing body to carry on labor negotiations. Pursuant to ORS 192.660 (3), it is Council's wish that the items discussed not be disclosed by media representatives or others.

ADJOURNMENT:

This information is available in large print or audio tape upon request. In addition, assistive listening devices, sign language interpreters, or qualified bilingual interpreters will be made available at any public meeting or program with 72 hours advance notice. To request these services, please call 503-526-2222/voice TDD.

# PROCLAMATION

## OFFICE OF THE MAYOR CITY OF BEAVERTON



- 
- WHEREAS,** libraries are part of the American Dream – places for opportunity, education, self-help and lifelong learning; and
- WHEREAS,** our nation's public, academic, school and specialized libraries help people change the world; and
- WHEREAS,** libraries play a vital role in providing millions of people with the resources they need to live, learn and work in the 21st century; and
- WHEREAS,** libraries bring you a world of knowledge both in person and online, as well as personal service and assistance in finding what you need, when you need it; and
- WHEREAS,** libraries are a key player in the national discourse on intellectual freedom, equity of access, and narrowing the “digital divide;” and
- WHEREAS,** awareness and support must be increased for libraries; librarians, library workers and supporters across America are celebrating National Library Week by raising their visibility in a positive context and by communicating clearly and strongly why libraries are both unique and valuable; and
- NOW, THEREFORE,** be it resolved that I, Rob Drake, Mayor of the City of Beaverton, Oregon, do hereby proclaim the week of April 2-8, 2006 as:

### **NATIONAL LIBRARY WEEK**

in the City of Beaverton.



Rob Drake  
Mayor

# **PROCLAMATION**

## **OFFICE OF THE MAYOR CITY OF BEAVERTON**



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**WHEREAS,** the management of records and information is critical to every business, organization and government agency in facing the complexities of competition, customer service and globalization; and

**WHEREAS,** technologies for storing information are expanding the amounts of information that can be acquired, with increased longevity; and

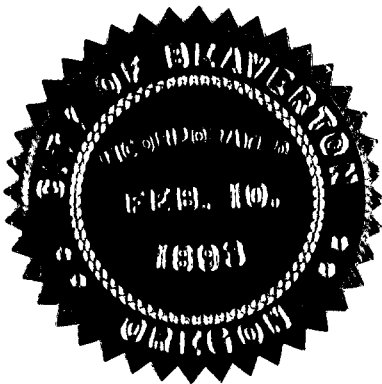
**WHEREAS,** the need to use information to create value and plan strategically is a driving force in today's world; and

**WHEREAS,** the citizens of Beaverton should recognize the important service performed by records and information professionals; and

**NOW, THEREFORE, I, Rob Drake, Mayor of the City of Beaverton, Oregon, do hereby proclaim the month of April 2006 as:**

### **RECORDS AND INFORMATION MANAGEMENT MONTH**

in the City of Beaverton and urge all citizens to recognize this event.



Rob Drake  
Mayor

## AGENDA BILL

**B** averton City Council  
Beaverton, Oregon

**SUBJECT:** Washington County Cooperative Library  
Services Provision of Internet  
Filtering.

**FOR AGENDA OF:** 04-10-06 **BILL NO:** 06051

**Mayor's Approval:** *Bohlsche*

**DEPARTMENT OF ORIGIN:** Library *Effuse*

**DATE SUBMITTED:** 03-29-06

### **CLEARANCES:**

**PROCEEDING:** Work Session

**EXHIBITS:** Definitions of Categories Being  
Filtered

### **BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$0	BUDGETED \$0	REQUIRED \$0

### **HISTORICAL PERSPECTIVE:**

Under the direction of the Beaverton City Council the Beaverton City Library has provided Internet filtering for children's workstations since 2001. Historically the Beaverton City Library Advisory Board has been very concerned that the Library maintains user's First Amendment right to free access to information while at the same time protecting its youngest users from viewing unintended sites. The Washington County Cooperative Library Service has agreed to provide each member library filtering software that allows for full access to adults, yet continues to protect children.

### **INFORMATION FOR CONSIDERATION:**

The current provider for Internet filtering at the Beaverton City Library has gone out of business. While the basic filtering package still is in operation it cannot be updated to address new sites. The proposed Washington County Inter-Library Information Network (WILInet) User Internet Filter Selection Agreement that is on the Consent Agenda allows each library to determine its own level of Internet filtering. Beaverton City Library will continue to provide filtering for its children's area workstations. A new feature provided by this filtering software is to enable young adult and adult users, through the use of a drop-down menu, to select whether they would prefer to have their Internet session unfiltered, or filtered at the Adult Filtered or Child Filtered levels.

The WILInet User Internet Filter Selection Agreement allows each library to independently change the categories and its designated level of Internet filtering at any time during the term of the agreement.

### **RECOMMENDED ACTION:**

Council discuss and understand the proposed WILInet User Internet Filter Selection Agreement.

**Children's Filtering Categories**  
(Adult Categories have an \* Asterisk)

Alcohol – Sites promoting the use of alcohol, drink recipes, bartender guides, home brewing methodology, drinking games, advertisements and use of alcohol for consumption purposes including pubs, bars, breweries and alcohol manufacturers.

Chat – Sites offering chat-rooms and chat services as well as chat sites accessed via a web browser, chat logs, IRC client downloads, IRC channel listings or channel information.

\*Child Pornography – Sites that promote, discuss and portray children in sexual acts and activity.

Criminal Skills – Sites that promote crime or illegal activity such as credit card number generation, illegal surveillance and murder.

Cults – Sites promoting cult subject matter, use of mind control, paranoia, fear, and any other type of psychological control or manipulation.

Drugs – Sites that promote the sale/use of illegal drugs and narcotics, paraphernalia for express use with illegal narcotics, questionably legal “supplements” with narcotic effect or sites that glorify the effect of illegal narcotics. Sites that offer techniques and products for testing clean for drugs as well as information on other forms of narcotics.

\*Explicit Art – Art web sites that display art works containing graphic nudity, nude photography, sex acts and/or disturbing images.

Gambling – Sites which encourage gambling such as betting sites, bookmaker odds, lottery, bingo, horse/dog track, online sports betting online casinos, etc.

Hacking – Sites discussing and/or promoting unlawful or questionable tools or information revealing the ability to gain access to software or hardware/communications equipment and/or passwords. Sites that discuss password generation, compiled binaries, hacking tools, software piracy (game cracking).

Hate & Discrimination – Sites that contain material related to the discrimination of any group of people based on race, religion, gender, nationality, etc. Sites which concentrate on violence or the destruction of human life, including a single person or an entire race, religion, gender, etc. Sites focused on the superiority of one race, religion, gender, etc., while degrading others with use of propaganda or violent action.

Militant/Extremist/Terrorist – Sites that contain information regarding militias, anti-government/anti-establishment groups, terrorism, bomb making/usage, anarchy, etc.

\*Obscene/Tasteless – Site that contain explicit graphical or text depictions of such things as mutilation, murder, bodily functions, horror, death, rude behavior, executions, violence, and obscenities, etc.

Personals/Dating – Sites related to personal ads, dating sites, dating services, dating tips, relationships, introductions, “how to find a mate” sites, introductions for purposes of finding friends or other relationships, etc.

\*Pornography – Sites that portray sexual acts, activity, nudity, toys, stories/writings, bestiality, fetishes, videos, etc.

R-Rated – Services pertaining to anything that involves 18 and over material such as lingerie, and swimsuits, revealing pictures. Sites that are adult in nature without being explicitly pornographic.

School Cheating – Sites that offer materials that enable students to plagiarize or cheat in the their academic endeavors, including pre-written papers, answer keys, cheating methods or complete summaries intended to help students circumvent research.

\*Spyware & Malicious Code – Sites that promote, demonstrate and/or use of offer code that intentionally cause harm by modifying or destroying computer systems. Sites that offer software to monitor user behavior without user’s knowledge and consent.

Unsavory/Dubious – Sites of a questionable legal or ethical nature. Sites which promote or distribute products, information, or devices whose use may be deemed unethical or, in some cases, illegal.

## **AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Current Investment Practices and  
Proposal to Use Non-discretionary  
Investment Advisory Services

**FOR AGENDA OF:** 04-10-06 **BILL NO:** 06052

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** Finance 

**DATE SUBMITTED:** 04/03/06

**CLEARANCES:** None

**PROCEEDING:** Work Session

**EXHIBITS:**

### **BUDGET IMPACT**

EXPENDITURE REQUIRED \$-0-*	AMOUNT BUDGETED \$-0-*	APPROPRIATION REQUIRED \$-0-*
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### **HISTORICAL PERSPECTIVE:**

The City's Finance Department manages the City's investment portfolio. On average, the City has an investment portfolio value of approximately \$55 Million, and consists of securities purchased by the City or funds placed with the State's Local Government Investment Pool (LGIP). As an example, the investment portfolio for the month ended March 2006, totaled \$53.2 Million and consisted of \$26.1 Million in 24 specific security investments and \$27.1 Million in the LGIP.

Within the next 12-month period, the staff member that manages the City's investment portfolio will be retiring. In addition, municipal governments are increasingly migrating from managing their investment portfolios on a day-to-day basis and engaging an investment advisor to assist municipalities in performing these duties.

Pending the completion of this Work Session, staff recommends the Council approve the use of an investment advisor to assist the City in managing its investment portfolio under a non-discretionary basis. On tonight's Council Agenda is Agenda Bill 06047 that would establish investment advisory services under a non-discretionary basis.

### **INFORMATION FOR CONSIDERATION:**

Staff has developed a power point presentation that details the City's current process in managing the City's investment portfolio and the proposed process using a third party investment advisor under a non-discretionary basis.

### **RECOMMENDED ACTION:**

Hold a Work Session, listen to the power point presentation and ask questions of staff.



**DRAFT**

BEAVERTON CITY COUNCIL  
REGULAR MEETING  
MARCH 20, 2006

CALL TO ORDER:

The Regular Meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Forrest C. Soth Council Chamber, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, March 20, 2006 at 6:30 p.m.

ROLL CALL:

City Recorder Sue Nelson administered the Oath of Office to Bruce S. Dalrymple as Interim City Councilor, Position No. 1.

Present were Mayor Drake, Couns. Catherine Arnold, Betty Bode, Bruce S. Dalrymple, Dennis Doyle and Cathy Stanton. Also present were City Attorney Alan Rappleyea, Chief of Staff Linda Adlard, Finance Director Patrick O'Claire, Engineering Director Tom Ramisch, Operations/Maintenance Director Gary Brentano, Library Director Ed House, Human Resources Director Nancy Bates, Police Chief David Bishop and City Recorder Sue Nelson.

PRESENTATION:

06045 Presentation of Proposed Ordinance Regarding Vacant Buildings

Code Enforcement Officer George Fetzer explained the City had received complaints about vacant buildings that had become neighborhood nuisances. He said the current City Code did not adequately address the problems created by these vacant buildings; staff was asked to research the subject and draft a proposed ordinance that Council would be considering at this meeting (Agenda Bill 06050).

Fetzer presented a PowerPoint presentation concerning vacant buildings that had become neighborhood nuisances (in the record). He said the vacant buildings in Beaverton had become nuisances due to garbage, graffiti and vandalism; the buildings were easy to access for there were no windows or doors, and they presented an attractive nuisance to children and vagrants. He explained how the proposed ordinance would address these problems. He said this ordinance was intended to prevent urban blight that has been created by buildings that were in disrepair.

Fetzer said vacant buildings were serious fire hazards; they harbor rats and vermin, and result in declining property values in the neighborhood. He said the National Fire Protection Administration (NFPA) has stated that vacant buildings pose significant hazards to firefighters. He said in a fire, weakened structures collapse, open stairs or pits are serious fall hazards when smoke is present, and rubbish/litter can block passageways and cause rapid fire development. He showed pictures of the Worcester

Fire (Massachusetts) where the hazards in a vacant building resulted in the death of six firefighters. He said according to the NFPA more firefighters were injured in vacant and abandoned property fires than in any other type of structure fire.

Fetzer said the NFPA recommends the following solutions in dealing with vacant buildings: 1) Remove combustibles from the interior and exterior of the property; 2) Reduce the appearance of vacancy; and 3) Prevent entry into the building. He reviewed in detail how the proposed ordinance secures buildings and diminishes the appearance of vacancy. He said the final solution to abandoned buildings was demolition; though this could be costly, it would allow for new development. He said the City was proceeding towards demolition on one of the vacant properties in Beaverton and was working with the property owner on this matter. He explained how the public could report at-risk or problem properties to the City.

Coun. Doyle asked if the proposed ordinance was modeled after other existing ordinances.

Fetzer said he drafted the ordinance after studying several other vacant building ordinances. He said the City Attorney, the Chief Building Inspector, the Fire Marshal's staff and Mayor Drake had reviewed and approved the proposed ordinance.

Coun. Doyle referred to the 60-day provision in the definition section of the ordinance (Agenda Bill 06050) and asked if this was typical for this type of ordinance.

Fetzer replied that similar ordinances had a vacancy period that ranged from 30 to 120 days. He said 60 days seemed a reasonable amount of time.

Coun. Arnold referred to the ordinance and said 180 days without any work taking place on a building under construction seemed a long period of time.

Fetzer said that was from the requirements in the Uniform Building Code that allows 180 days without any activity before a building permit expires.

Coun. Arnold referred to Sections 4 and 5 of the proposed ordinance and asked what the distinction was between those sections.

Fetzer said Section 4 dealt with the building at grade or ground level (first floor); Section 5 dealt with the building ten feet above the grade or ground (second floor). He said at the ground level, doors and windows would need to be boarded up with plywood, bars and bolts to ensure the plywood could not be pried off. He said on the second floor access was more difficult and methods for blocking access would not need to be that extreme.

Coun. Arnold asked if the ordinance covered situations such as a hole near a door knob that would allow someone to reach in and open the door.

City Attorney Alan Rappleyea said in that case the door would not be considered intact and it would have to be boarded up.

Coun. Bode asked how many buildings in Beaverton pertained to the vacant building ordinance.

Fetzer said there were construction crews working on cleaning up the two houses on Division Street and that case would close; the house on Barrows Road and the building on Western Avenue were still active. He said once the ordinance became effective he could open a case on the house on Rebecca Street.

Coun. Stanton confirmed with Fetzer that demolition was already addressed in Chapter 8 of the City Code and was not part of the proposed ordinance.

Mayor Drake thanked Fetzer for the presentation.

#### VISITOR COMMENT PERIOD:

There were none.

#### COUNCIL ITEMS:

Coun. Stanton said the four candidates for the Metro Council District 4 position would be speaking this Thursday (March 23rd) at 7:30 a.m., at the West Side Economic Alliance Breakfast Forum, at the Kingstad Center. She also said April 1-8, 2006, was National Library Week, and libraries in the Washington County Cooperative Services would be holding many special events. On April 1 at 1:00 p.m., at the Beaverton City Library, a storytelling event would be held and she invited everyone to attend.

#### STAFF ITEMS:

There were none.

#### CONSENT AGENDA:

Mayor Drake said Agenda Bill 06047 was pulled and rescheduled to April 10, 2006.

Coun. Stanton MOVED, SECONDED by Coun. Doyle, that the Consent Agenda be approved as follows:

Minutes of the Regular Meeting of March 6 and Special Meeting of March 8, 2006

06046 Authorize a Transfer Resolution to Establish the Appropriation to Purchase, Recondition and Equip a Used Paving Machine from the City of Portland (Resolution No. 3855)

Contract Review Board:

06047 Contract Award - Non-Discretionary Investment Advisory Services  
(Rescheduled to April 10, 2006)

06048 Exemption From Competitive Solicitation - Award Contract for Voice Over Internet Protocol (VoIP) Equipment and Implementation Services Through the State of Oregon  
Price Agreement Number 1055

Question called on the motion. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0) Coun. Bode abstained from voting on the March 6 and 8, 2006 Minutes as she was not present at those meetings. Coun. Dalrymple abstained from voting on the March 6 and 8, 2006 Minutes as he was not an appointed councilor at that time.

#### PUBLIC HEARINGS:

##### 06049 Public Hearing on Biggi Investment Partnership Measure 37 Claim

Mayor Drake opened the public hearing and requested a motion to continue the hearing to May 15, 2006.

Coun. Stanton MOVED, SECONDED by Coun. Arnold that Council continue the public hearing on the Biggi Investment Partnership Measure 37 Claim to May 15, 2006. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

#### ORDINANCES:

Coun. Doyle MOVED, SECONDED by Coun. Stanton, that the rules be suspended, and that the ordinance embodied in Agenda Bill 06050 be read for the first time by title only at this meeting, and for the second time by title only at the next regular meeting of the Council. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

First Reading:

Rappleyea read the following ordinance for the first time by title only:

##### 06050 An Ordinance Amending Chapter 5.05 of the Beaverton Code Regarding Vacant Buildings (Ordinance No. 4386)

Second Reading:

Rappleyea read the following ordinance for the second time by title only:

##### 06043 An Ordinance Amending the Beaverton Code in Chapter Two Relating to the Inventory of Prisoner Personal Property and Declaring an Emergency (Ordinance No. 4385)

Coun. Stanton MOVED, SECONDED by Coun. Doyle, that the ordinance embodied in Agenda Bill 06043 now pass. Roll call vote. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

#### ADJOURNMENT

There being no further business to come before the Council at this time, the meeting was adjourned at 7:05 p.m.

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Sue Nelson, City Recorder

APPROVAL:

Approved this     day of     , 2006.

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Rob Drake, Mayor

## AGENDA BILL

Beaverton City Council  
Beaverton, Oregon

**SUBJECT:** LIQUOR LICENSES

**FOR AGENDA OF:** 4/10/06 **BILL NO:** 06053

**NEW OUTLET**

El Ranchito Alegre III  
4120 SW Cedar Hills Boulevard

Sushitime  
8610 SW Hall Boulevard

**MAYOR'S APPROVAL:** 

**DEPARTMENT OF ORIGIN:** Police 

**DATE SUBMITTED:** 03/21/06

**CHANGE OF OWNERSHIP**

El Perilo Y Taqueria  
12000 SW Allen Boulevard #9

**ADDITIONAL PRIVILEGE**

Mingo  
12600 SW Crescent

**CHANGE OF OWNERSHIP & GREATER  
PRIVILEGE**

Hakatamon Japanese Restaurant  
10500 SW Beaverton-Hillsdale Highway

Yuzu Japanese Restaurant  
4130 SW 117<sup>th</sup> Avenue

**PROCEEDING:** Consent Agenda

**EXHIBITS:** None

### **BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$ 0	BUDGETED \$ 0	REQUIRED \$ 0

**HISTORICAL PERSPECTIVE:**

Background investigations have been completed and the Chief of Police finds that the applicants meet the standards and criteria as set forth in B.C. 5.02.240. The City has published in a newspaper of general circulation a notice specifying the liquor license requests.

**INFORMATION FOR CONSIDERATION:**

El Ranchito Alegre Inc. is opening a new establishment and has made application for an Off-Premises Sales License under the trade name of El Ranchito Alegre III. The establishment will be a grocery store. It will operate seven days a week, from 9:00 a.m. to 10:00 p.m. There will be no entertainment offered. An Off-Premises Sales License allows the sale of malt beverages, wine, and cider to go in sealed containers.

**Ag nda Bill No:** 06053

Tae W. Chung has made application for a Limited On-Premises Sales License under the trade name of Sushitime. The establishment will serve Japanese food. It will operate Sunday through Thursday from 10:00 a.m. to 12:00 a.m., and Friday and Saturday from 10:00 a.m. to 2:00 a.m. There will be no entertainment offered. A Limited On-Premises Sales License allows the sale of malt beverages, wine and cider for consumption at the licensed business, and the sale of kegs of malt beverages to go.

Copacabana and Taqueria, formerly licensed by the OLCC to Ramiro Dominguez, is undergoing a change of ownership. Antonio Avalos Segundo, has made application for a Limited On-Premises Sales License under the trade name of El Perilo Y Taqueria. The establishment will serve Mexican food. It will operate Sunday through Thursday from 10:00 a.m. to 12:00 a.m., and Friday and Saturday from 10:00 a.m. to 2:00 a.m. They will offer a D.J., dancing, and karaoke as entertainment. A Limited On-Premises Sales License allows the sale of malt beverages, wine and cider for consumption at the licensed business, and the sale of kegs of malt beverages to go.

Tocchini-Cronan, LLC, has made application for Additional Privilege for its restaurant, Mingo. It is requesting an Off-Premises Sales License in addition to its Limited On-Premises Sales License. The establishment serves Italian food. It operates seven days a week, Monday through Saturday from 11:00 a.m. to 12:00 a.m., and Sunday 4:00 p.m. to 9:00 p.m. There is no entertainment offered. An Off-Premises Sales License allows the sale of malt beverages, wine, and cider to go in sealed containers.

Sambi Japanese Restaurant, formerly licensed by the OLCC to Sambi, LLC, is undergoing a change of ownership, and is requesting to change from a Limited On-Premises Sales License to a Full On-Premises Sales License. Hakatamon Japanese Restaurant, Inc., has made application for a Full On-Premises Sales License under the trade name of Hakatamon Japanese Restaurant. The establishment will serve Japanese food. It will operate Monday through Friday serving lunch from 11:00 a.m. to 2:00 p.m. and dinner from 5:00 p.m. to 9:00 p.m., and Saturday and Sunday serving lunch and dinner from 11:00 a.m. to 9:00 p.m. There will be no entertainment offered. A Full On-Premises Sales License allows the sale of distilled spirits, malt beverages, wine and cider for consumption at the licensed business.

Hakatamon Japanese Restaurant, formerly licensed by the OLCC to Toshikaza Kato, is undergoing a change of ownership, and is requesting to change from a Limited On-Premises Sales License to a Full On-Premises Sales License. Yuzu Japanese Restaurant, Inc., has made application for a Full On-Premises Sales License under the trade name of Yuzu Japanese Restaurant. The establishment will serve Japanese food. It will operate Monday through Saturday serving lunch from 11:30 a.m. to 2:00 p.m. and dinner from 5:00 p.m. to 12:00 a.m. There will be no entertainment offered. A Full On-Premises Sales License allows the sale of distilled spirits, malt beverages, wine and cider for consumption at the licensed business.

**RECOMMENDED ACTION:**

The Chief of Police for the City of Beaverton recommends City Council approval of the OLCC licenses.

## **AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Boards and Commissions Appointment –  
Carmen Gobel to Citizens with Disabilities  
Advisory Committee

**FOR AGENDA OF:** 4/10/06 **BILL NO:** 06054

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** Mayor's  
Office/Neighborhood Program

**DATE SUBMITTED:** 03-23-06

### **CLEARANCES:**

**PROCEEDING:** CONSENT AGENDA

**EXHIBITS:** Application for new appointment

### **BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED\$0	BUDGETED\$0	REQUIRED \$0

### **HISTORICAL PERSPECTIVE:**

There is currently a vacancy on the Citizens with Disabilities Advisory Committee. Mayor Rob Drake is forwarding Carmen Gobel's application with the recommendation that she be appointed to fill the vacancy. Ms. Gobel's term is effective immediately and will expire on December 31, 2008.

### **RECOMMENDED ACTION:**

Confirm recommended appointment to the Citizens with Disabilities Advisory Committee.





# BOARDS AND COMMISSION

## APPLICATION

OCT 11 2005

DATE: Oct. 11, 2005

Board/Commission applying for:

1st Choice

2nd Choice

Citizens with Disabilities Advisory Committee.  
Citizens with Disabilities Advisory Committee.

Name

Employer

Position

Address

City

Zip

Home Phone

Business Phone

E-mail Address

How did you hear of the opening?

Mail.

Are you a City resident?\* If yes, how long have you lived in the City? Yes. All my life. Except Boston. May we keep your name on a list if not appointed at this time? Yes.

Briefly describe your background and experience:

I am a life long experienced Disabled Citizen from the age of 8 yrs. old. When I myself was hit or struck by an oncoming vehicle. Resulting in a full blown stroke and being in a coma for approx. 1 day.

\*The charter for the City of Beaverton, Chapter V, Section 19, C.2., provides that:  
 "Unless waived by a majority vote of the entire council, a member of any committee, board or commission shall be a resident of the City."

Continued on reverse side

List any special training, skills or experience you may have that are pertinent to the Board/Commission to which you are applying:

My Special Skills & Training are:

1. Exceptional Customer Service

2. Friendly

3. Punctual

4. Outgoing

5. Strong Organizational Skills

6. Beauty license (1996)

Discuss your motivation for serving on this Board/Commission:

My motivation for serving on this Board/Commission is to establish potential gain; to

that Disabled Citizens are and feel more safe secure and satisfied to have pleasurable outings within the Community of the Beaverton Area.

State your goals for the City:

My goals for the City are:

1. Safety Comes first

2. Dream Work

3. Standing up for one's own rights

4. Safe, secure and satisfied strength

5. Striving forward to be the Best

7. American Travel University/Univest School Inc. (1991 - Dec. 1992) Certificate

8. Business Modeling College (1987 - 1988) Certificate

9. Experience of a Disability since age 8

For additional information, please call the Neighborhood Program at 503-526-2543.

Return application to: Neighborhood Program, City of Beaverton

P.O. Box 4755

Beaverton, OR 97076-4755

Fax: (503) 526-3730

You may also apply on our website at [www.beavertonoregon.gov](http://www.beavertonoregon.gov)

## **AGENDA BILL**

Beaverton City Council  
Beaverton, Oregon

**SUBJECT:** Boards and Commissions Appointment –  
Ruben Medina, Jr. to Human Rights  
Advisory Commission

**FOR AGENDA OF:** 04-10-06 **BILL NO:** 06055

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** Mayor's  
Office/Neighborhood Program

**DATE SUBMITTED:** 04-04-06

### **CLEARANCES:**

**PROCEEDING:** CONSENT AGENDA

**EXHIBITS:** Application for new appointment

### **BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED\$0	BUDGETED\$0	REQUIRED \$0

### **HISTORICAL PERSPECTIVE:**

There is currently a vacancy on the Human Rights Advisory Commission. Mayor Rob Drake is forwarding Ruben Medina, Jr.'s application with the recommendation that he be appointed to fill the vacancy. Mr. Medina's term is effective immediately and will expire on December 31, 2007.

### **RECOMMENDED ACTION:**

Confirm recommended appointment to the Human Rights Advisory Commission.

COB - WBNAC

OCT 14 2009



## BOARDS AND COMMISSIONS APPLICATION

DATE: 10/12/05

Board/Commission applying for:	
1 <sup>st</sup> Choice	<u>Human Rights Advisory</u>
2 <sup>nd</sup> Choice	

Name <u>Ruben Medina, Jr</u>		Employer		Position	
Address		City		Zip	
Home Phone		Business Phone			
Email Address					
How did you hear of the opening? <u>"Your City" Magazine</u>					
Are you a City resident?* If yes, how long have you lived in the City? <u>Yes, 8 months</u>			May we keep your name on a list if not appointed at this time? <u>Yes</u>		
Briefly describe your background and experience: <u>See attachment #1</u>					

\*The Charter for the City of Beaverton, Chapter V, Section 19, C.2., provides that:  
"Unless waived by a majority vote of the entire council, a member of any committee,  
board or commission shall be a resident of the City"

List any special training, skills or experience you may have that are pertinent to the Board/Commission to which you are applying:

See attachment # 2

Discuss your motivation for serving on this Board/Commission:

See attachment # 3

State your goals for the City:

See attachment # 4

**For additional information, please call the Neighborhood Program at 526-2543.**

Return application to: Neighborhood Program, City of Beaverton  
P.O. Box 4755

Beaverton, OR 97076-4755

Fax: (503) 526-2572

#### **Attachment #1**

I am a criminal defense and personal injury attorney in downtown Portland. I am a graduate of Skidmore College in Saratoga Springs, New York where I majored in Political Science and Spanish. I attended law school at Lewis & Clark Law School. While in Oregon I have worked at different law offices in cases ranging from police brutality cases to farm worker litigation. My attorney practice is almost entirely focus on the representation of Latino clients and as a result I have been continued contact with that community.

#### **Attachment #2**

As stated above I have been involved in several career opportunities which I feel bare directly upon human rights issues, for example police brutality. While in Law school my preferred area of study was international law. As a result I have taken classes in public international which has help me familiarize myself with international human rights treaties and conventions. I also took a class on human rights for which I completed a paper on the self-determination of peoples. I have also written papers on non-discrimination law in sexual orientation issues. I have also studied racism and the law having written one paper in particular about sexualized racism.

#### **Attachment #3**

I have always been interested in human rights issues. It is my belief that the develop of human rights is an area of "new law" and that cities and local communities must understand and integrate human rights into their decision making process. As the country and local communities become increasingly "globalized", cities have an obligation to adapt to changes in culture, language and other non-traditional ways of life. The Human Right Advisory Commission I believe is pivotal in that process. By advising decision-maker the commission creates a space for dialogue, understanding and positive change. I would like to be involved in that process.

#### **Attachment #4**

My goal for Beaverton is a city that is diverse, inclusive, prosperous and dynamic.

## **EDUCATION**

*Lewis and Clark Law School*, Portland, OR

J.D., December 2002

Phi Delta Phi, member; Latino Legal Society; Oregon Gay and Lesbian Law Association.

*Skidmore College*, Saratoga Springs, NY

Bachelor of Arts in Political Science and Spanish, May 1999

Sigma Delta Phi; Spanish Honor Society; Raices Latino Society, Public Relations Officer.

*Autonomous University of Madrid*, Madrid, Spain

January 1998- May 1999

Courses in Spanish Law, Politics, Civilization, Literature and Theater,

## **EXPERIENCE**

*Squires & Lopez P.C.*, Portland, OR

Associate Attorney, Present

Prepare and litigate Misdemeanor cases.

Research, write and file motions.

Prepare Insurance claims in Personal Injury actions.

*Multnomah County Circuit Court*, Portland, OR

Judicial Clerk to the Honorable David Gernant, March 2003 - October 2004

Researched and wrote legal opinions for Judge.

Review and write sentencing and pre-trial forms.

Official court reporter and bailiff.

*Vogt & Chipman*, P.C., Portland, OR

Certified Law Clerk, Summer 2002

Wrote interoffice memorandums and motions on search and seizure law, and 1983 claims

Appearances for docket call and Ex-Parte Hearings.

## **PROFESSIONAL MEMBERSHIPS**

Oregon State Bar, Oregon Defense Lawyers Association, Multnomah Bar Association

## **ACTIVITIES**

Travel, Orchid Collecting, Star Trek, Cooking and Dancing.

## **AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Authorize Intergovernmental Agreement  
with Washington County Cooperative  
Library Services to Provide Internet  
Filtering.

**FOR AGENDA OF:** 04-10-06 **BILL NO:** 06056

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** Library 

**DATE SUBMITTED:** 03-29-06

**CLEARANCES:** City Attorney 

**PROCEEDING:** Consent Agenda

**EXHIBITS:** WILnet User Internet Filter  
Selection Agreement & Exhibit A

### **BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$0	BUDGETED \$0	REQUIRED \$0

### **HISTORICAL PERSPECTIVE:**

Under the direction of the Beaverton City Council the Beaverton City Library has provided Internet filtering for children's workstations since 2001. The Washington County Cooperative Library Service has agreed to provide filtering centrally using Comprise Technologies' 8e6 filtering software to each member library effective upon the date it is signed by the last signatory party.

### **INFORMATION FOR CONSIDERATION:**

The proposed WILnet User Internet Filter Selection Agreement allows each library to determine its own level of Internet filtering. Beaverton City Library will continue to provide filtering for its children's area workstations. This filter will screen out the following categories: alcohol, child pornography, chat, criminal skills, cults, drugs, explicit art, gambling, hacking, hate, militant/extremist, obscene tasteless, personals/dating, pornography, r-rated, school cheating, spyware malicious code, and unsavory/dubious. A new feature that is provided by this filtering software is to enable adult users to select through a drop-down menu whether they would prefer to have their Internet session unfiltered or filtered at the Adult Filtered or Child Filtered levels. The Adult Filter would screen out the following categories: child pornography, explicit art, obscene tasteless, pornography, and spyware malicious code. Currently the Young Adult Homework Center (YAHC) does not provide any filtering. The Library Director recommends that YAHC users be provided a choice through a drop-down menu of using Child Filtered or Adult Filtered.

The WILnet User Internet Filter Selection Agreement allows each library to independently change the categories and its designated level of Internet filtering at any time during the term of the agreement.

### **RECOMMENDED ACTION:**

Council authorize the Mayor to sign the attached WILnet User Internet Filter Selection Agreement.



## **WILnet User Internet Filter Selection Agreement**

This Agreement is entered into by and between Washington County, a home rule subdivision of the State of Oregon, hereinafter referred to as "County", on behalf of Washington County Cooperative Library Services, hereinafter referred to as "WCCLS" and Beaverton City Library, hereinafter referred to as "WILnet User."

**WHEREAS**, the parties hereto are currently participants in the WCCLS Network; and

**WHEREAS**, the parties are either units of local government authorized pursuant to ORS 190.010 to enter into intergovernmental agreements, or are private non-profit agencies operating libraries; and

**WHEREAS**, the parties to this agreement are also parties to the Washington County Inter-Library Information Network Agreement (WILnet Agreement); and

**WHEREAS**, pursuant to the WILnet Agreement, WCCLS is the owner of the central site system hardware, software, and communications equipment for WILnet and is responsible for administering and maintaining the WILnet computer network; and

**WHEREAS**, WCCLS will be installing internet filtering hardware onto the WILnet computer network that will allow each WILnet User to independently select a level of internet filtering for its patrons that is consistent with its individual internet access policy.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. County, by and through WCCLS, agrees to install and maintain internet filtering hardware onto the WILnet computer network that will allow WILnet User to select a level of internet filtering that is most consistent with its own internet policy.
2. WILnet User hereby directs County, by and through WCCLS, to apply the level of internet filtering specified in Exhibit A, which is attached hereto and incorporated herein by this reference, to WILnet User's WILnet network site.

WILnet User may change its designated level of internet filtering at any time during the term of this Agreement by providing County with written notice of the requested change at the following address:

Washington County Cooperative Library Services  
Library Automation Systems Supervisor  
111 NE Lincoln St., Rm. 230-L  
Hillsboro, Oregon 97124- 3036

Subject to the capabilities of the hardware described in Section 1 herein, County shall have ten (10) business days within which to implement any change to the designated internet filtering level requested by WILnet User.

3. Subject to the limits of the Oregon Tort Claims Act (ORD 30.260 – 30.300), WILnet User agrees to indemnify and hold harmless, Washington County, WCCLS, their

officers employees and agents from any and all claims, demands, actions and suits, including any attorney fees and costs that may be incurred by the indemnitees arising out of WILInet User's selection of its internet filtering level for the WILInet computer network, its direction to County to implement WILInet User's internet filtering level selection on the WILInet computer network, and County's actual implementation of WILInet User's internet filtering level selection on the WILInet network.

4. This Agreement shall become effective upon the date it is signed by the last signatory party and shall continue indefinitely. However, this Agreement may be terminated by either party at anytime upon 30 days advance written notice to the other party.
5. WILInet User shall comply with all federal, state and local laws, regulations, executive orders and ordinances that are applicable to this Agreement.
6. County and WILInet User are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
7. County and WILInet User may amend this Agreement at anytime only by written amendment signed by each of the parties hereto.

WILINET USER

WASHINGTON COUNTY

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Mayor  
Title

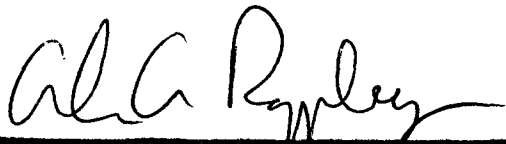
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Approved as to Form**

Approved as to form:

  
\_\_\_\_\_  
**City Attorney**

\_\_\_\_\_  
Sr. Assistant County Counsel

# WILnet User Internet Filter Selection Agreement

## Exhibit A

Library Name: Beaverton City Library

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Apply three possible levels of filtering to public access Internet workstations running Smart Access Manager as follows:

1. **Unfiltered** access: no 8e6 categories filtered
2. **Adult Filtered** filters the following 8e6 categories: Child Pornography, Explicit Art, Obscene Tasteless, Pornography, Spyware Malicious Code
3. **Child Filtered** filters the following 8e6 categories: Alcohol, Child Pornography, Chat, Criminal Skills, Cults, Drugs, Explicit Art, Gambling, Hacking, Hate, Militant/Extremist, Obscene Tasteless, Personals/Dating, Pornography, R-Rated, School Cheating, Spyware Malicious Code, Unsavory/Dubious.

Location ID(s)	Default Filter Option	SAM drop-down menu options	Apply Polaris DoB?	If no Polaris DoB?	Two Visitor Pass Buttons?
BCLChildrens	Child Filtered	None	No		No: single Child Filtered visitor button for this manager.
Beaverton1	Adult Filtered: all will need to choose from a drop-down.	Unfiltered Adult Filtered Child Filtered	No		Prefer single guest button that will offer drop-down with all three filter options. OR: Adult Filtered and Unfiltered buttons
BeavertonYA	Adult Filtered: all will need to choose from a drop-down.	Adult Filtered Child Filtered	No		Prefer single button that offers same drop-down as registered users. OR: Adult Filtered and Child Filtered buttons

All patron filter choices apply for a single session only.

## AGENDA BILL

Beaverton City Council  
Beaverton, Oregon



**SUBJECT:** Classification Changes

**FOR AGENDA OF:** 04-10-06 **BILL NO:** 06057

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** HR

**DATE SUBMITTED:** 04-04-06

**CLEARANCES:** Mayor's Office   
Operations  
Finance 

**PROCEEDING:** CONSENT AGENDA

**EXHIBITS:**

### **BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$15,554	BUDGETED \$0	REQUIRED \$15,554*

\*The additional funding is explained in this Agenda Bill and summarized Recommended Action.

### **HISTORICAL PERSPECTIVE:**

#### **Mayor's Office**

The City of Beaverton's CERT (Community Emergency Response Team) Program, which began in 2003, has matured and become a stable program. Over 300 CERT members have been trained to respond/operate safely in emergency and disaster situations since the program began in 2003.

The coordinator of the program is currently classified as Program Coordinator – Volunteer Services (Salary Grade 8). The Emergency Manager requested a review of this coordinator position in response to increased responsibility for training citizens, employees and outside jurisdictions.

#### **Operations Department**

##### Operations Manager

The Operations Department has two levels of management under the Director. Operations Managers I (salary grade 12) typically handle one or more programs of similar scope while Operations Managers II (salary grade 13) typically handle two or more technically diverse programs. Currently one Operations Manager 1 is responsible for the Streets Section and the Storm and Wastewater Construction Section. Another Operations Manager 1 is responsible for the Storm and Wastewater Maintenance Section.

##### Supervising Electrician

Oregon Law now requires an electrical permit to be signed by someone that holds an Electrical Supervisor's License and prohibits the person signing for the permit from also being involved in the inspection of the work. To comply with the law, Operations now must have a properly licensed person to sign electrical permits for work on traffic signals, streetlights and general electrical work at city facilities. This will require a new classification titled Supervising Electrician. Previously, an Electrical Inspector in the Building Division was allowed to sign for a permit and another employee could inspect the completed work.

## **INFORMATION FOR CONSIDERATION:**

### **Mayor's Office**

The Human Resources Department conducted an internal audit of the Program Coordinator – Volunteer Services position responsible for the CERT Program. This classification is in salary grade 8. The audit revealed that the level of responsibility, working conditions and knowledge required of the CERT position was dramatically different from the other Program Coordinator – Volunteer Services positions in the City.

Staff proposes that the Program Coordinator – Volunteer Services position in the Mayor's Office be eliminated and a new classification titled CERT Program Coordinator be established. This classification would be responsible for coordinating and administering the CERT Program and its volunteers.

An internal evaluation of this new classification places it in salary grade 9. There is not sufficient market data to make a sound recommendation based on external market. The additional cost of the reclassification for FY 06-07 is \$4,761, including salary and fringe benefits.

### **Operations**

#### **Operations Manager 2**

The Street Section and the Storm and Wastewater Construction Section have seasonal schedules that are busiest during the same months of the year (March through September). Managing these two groups as effectively and consistently as necessary during these times was difficult for one manager. The Storm and Wastewater Maintenance Section is busiest during the fall and winter; therefore, moving the Street Section to the Operations Manager who handles the Storm and Wastewater Maintenance Section would create a better managerial balance.

The increase in duties for the new Street, Storm and Sanitary Maintenance Manager results in an increase of responsibility, making it appropriately placed in the Operations Manager 2 classification. The additional cost of the reclassification for the remainder of FY 05-06 is \$1,514. For FY 06-07 the difference would be \$4,654. Both figures include salary and fringe benefits.

#### **Supervising Electrician**

The Human Resources Department conducted an internal audit of the proposed Supervising Electrician classification. The audit revealed that the level of responsibility, working conditions and knowledge required of the classification places it in a salary grade 10. Although this classification will not supervise employees, it will supervise electrical installations for all city facilities, traffic signal and street lighting systems.

An internal evaluation of this new classification places it in salary grade 10. An external evaluation was conducted and no significant matches were found. Other jurisdictions either have general electricians or have supervising electricians that also have lead or employee supervision responsibility. This position falls in between in terms of supervising several systems but not employees. The additional cost of the reclassification is \$4,625, including salary and fringe benefits.

## **RECOMMENDED ACTION:**

Council approve the following:

- A classification titled CERT Program Coordinator at salary grade 9, effective July 1, 2006. Funding for this reclassification will be included in the FY 2006-07 budget.
- A reclassification of the Operations Manager I-Storm/WW Maintenance position to an Operations Manager 2-Street, Storm and Sanitary Maintenance, effective April 16, 2006, and will be included in the next supplemental budget.
- A reclassification titled Supervising Electrician at a salary grade 10, effective July 1, 2006. Funding for this position will be included in the 2006-07 budget.

## AGENDA BILL

Beaverton City Council  
Beaverton, Oregon

**SUBJECT:** Approval of City Assistance for the Merlo Station Affordable Housing Project

**FOR AGENDA OF:** 04-10-06 **BILL NO:** 06062

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** CDD 

**DATE SUBMITTED:** 04-06-06

**CLEARANCES:** Finance   
City Attorney   
Planning 

**PROCEEDING:** Consent Agenda

**EXHIBITS:** A. Proposed Fee Waiver / SDC Subsidy Estimate  
B. Request Memorandum Dated April 3, 2006

### **BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$18,942	BUDGETED \$0	REQUIRED \$18,942

### **HISTORICAL PERSPECTIVE:**

In 2004, Tri-met met with the City of Beaverton and Tualatin Valley Housing Partners (TVHP) to propose that the agency transfer ownership of a surplus parcel of property located on Merlo Road to TVHP for purpose of developing an affordable housing complex on the property. Subsequent to that meeting, the City established a partnership with TVHP and has awarded the non-profit developer approximately \$530,000 in HOME funding toward the project. In Summer of 2005, the City of Beaverton processed a zone change application for the target property that altered the zone designation from Station Community – Employment (SC-E) to Station Community - Mixed Use (SC-MU) in order to accommodate the proposed use.

### **INFORMATION FOR CONSIDERATION:**

In recent years, the City has amended the Comprehensive Plan to include policies and actions intended to encourage the development of affordable housing and preserve existing stock. Having completed this work, we are now at a juncture in which specific measures can be taken to aid the development community in achieving the City's affordable housing goals. Tualatin Valley Housing Partners is in the predevelopment stage of building a 128-unit affordable housing complex on a block of land adjacent to the Merlo light rail station. As the most ambitious affordable housing project undertaken to date in Beaverton, this project, once completed, will showcase the City's efforts to promote affordable housing. In attempting to implement the policies adopted into the City's Comprehensive Plan to comply with Title 7 of Metro's Urban Growth Management Functional Plan, staff proposes that the City dedicate funding from the City's building fund, general fund, and revenue sharing fund in an amount not to exceed \$200,000 in permit fee waivers and SDC subsidies to help offset TVHP's costs associated with the development of this project.

Section 4.2.3.2.b of the City's Comprehensive Plan states that the City will "Partner with and assist local non-profit developers (including TVHP, [among others]) in supplying additional affordable units throughout the City for "at risk" populations including those at or below 60 percent of the MFI." Further, Development Code Section 10.55.2 authorizes the recommended action stating that "The Council may reduce or waive required fees upon a showing of just cause to do so."

### **RECOMMENDED ACTION:**

Approve the funding allocation consistent with Exhibit A (attached) to support Tualatin Valley Housing Partners in its development of a 128-unit affordable housing complex in the City and direct the City Finance Director to include the \$18,942 appropriation for a portion of the project's system development fees in the State Revenue Sharing Fund's proposed FY 2006-07 Budget.

**Agenda Bill No:** 06062

**EXHIBIT A**  
Proposed Fee Waiver / SCC Subsidy Estimate

## Proposed Fee Waiver / SDC Subsidy Estimate

### Building Permit / Development Review Fee Waiver

Permit/Application	Estimated Project Cost	Anticipated Rate Increase	Revised Project Cost	Fees Waived by:
Building	\$99,950	3%	\$102,949	City Building Fund (1)
Plumbing	\$19,800		\$19,800	City Building Fund (1)
Mechanical	\$12,900	5%	\$13,545	City Building Fund (1)
Electrical	\$19,075	10%	\$20,983	City Building Fund (1)
Erosion	\$9,575		\$9,575	City Building Fund (1)
Misc.	\$1,120		\$1,120	City Building Fund (1)
Type 3 Design Review	\$3,523		\$3,523	City General Fund (2)
Land Division	\$5,060		<u>\$5,060</u>	City General Fund (2)
			\$176,554	

### System Development Charge Subsidy

System Development Charge	Estimated Project Cost	Anticipated Rate Increase	Revised Project Cost	Revenue Returned to City	Adjustment Factor *	Proposed Expenditure
Water	\$120,000	4%	\$124,800			
Park	\$272,300	10%	\$299,530	\$8,986	0.0624	\$561
Storm	\$29,350	4%	\$30,524			
Traffic	\$204,700	6%	\$216,982	\$216,982	0.0624	\$13,540
Sewer	\$338,360	4%	<u>\$351,894</u>	<u>\$70,379</u>	0.0624	<u>\$4,392</u>
			\$1,023,730	\$296,347		\$18,492
						(City Rev Sharing Fund)

\* Staff proposes that the City pay a ratio of SDC costs proportionate to number of units available to residents earning below 30% MFI over the total units in the project. In the case of Merlo station that proportion amounts to a factor of 0.0624.

### Proposed Waived Fees and Expenditures

City Building Fund (Fees Waived) (1):	\$167,971
General Fund (Fees Waived) (2):	\$8,583
State Revenue Sharing Fund (Portion of SDC Costs):	<u>\$18,492</u>
Total:	\$195,046



**EXHIBIT B**

Request Memorandum Dated April 3, 2006



# MEMORANDUM

City of Beaverton

Community Development Department

*"make it happen"*

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**To: Mayor Rob Drake**  
**From: Joe Grillo, Community Development Director**  
**Date: April 3, 2006**  
**Subject: City Assistance for the Merlo Station Affordable Housing Project**

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As you are aware, the City has made considerable progress to comply with the Title 7 of Metro's Urban Growth Management Functional Plan. In recent years, the City has amended the Comprehensive Plan to include policies and actions intended to encourage the development of affordable housing and preserve existing stock. Having completed this work, we are now at a juncture in which specific measures can be taken to aid the development community in achieving the City's affordable housing goals. Over the past several months staff have been exploring various alternatives with a focus on addressing two primary objectives:

1. Production of affordable housing generally to advance the city toward meeting its affordable housing production goal (656 additional affordable housing units within five years).
2. Development of housing that caters to very low income residents acknowledging the fact that 427 units (65% of the 656 unit production goal) represent that income segment earning less than 30% of the median family income (MFI).

Achieving the second objective is particularly challenging. It is generally agreed throughout the construction industry that development catering to the 30% MFI income segment cannot provide an adequate return on investment and must therefore rely upon financial assistance in some form in order make the project "pencil out". The vast majority of projects catering to this income segment are built by non-profit housing developers specifically because of their ability to perform with a zero dollar margin of return on investment and effectiveness at maximizing resources so that developments of this nature get built and remain affordable.

Accordingly, the City has taken an active role in assisting its local non-profit housing development partners in their efforts to increase the City's inventory of affordable units. Such actions are formally supported by policy 4.2.3.2.b of the City's Comprehensive Plan which says the City will "Partner with and assist local non-profit developers (including TVHP, the Bridge Housing Corporation, Community Partners for Affordable Housing, the Housing Development Corporation, and Habitat for Humanity) in supplying additional affordable units throughout the City for "at risk" populations including those at or below 60% of the MFI."

## **Merlo Station Project**

Currently, Tualatin Valley Housing Partners (TVHP) is in the predevelopment stage of building a 128-unit affordable housing complex on a block of land adjacent to the Merlo light rail station. As the most ambitious affordable housing project undertaken to date in Beaverton, this project, once completed, will showcase the City's efforts to promote affordable housing.

The developer is attempting to serve an affordable housing need which is typically underserved because of the high cost involved. The proposed project would include two-, three-, and four-bedroom units, with a small number of units designed to accommodate developmentally disabled adults. The need for this housing is perhaps the most neglected among affordable housing types while at the same time occupying the segment of greatest need.

Project design includes community gathering areas and recreational activities. Due to its proximity to the Merlo Light Rail Station, the low-income residents of the project can rely on public transit as a primary means of getting around. Tri-Met has expressed an interest in providing transit passes to qualifying households within the complex – a factor which would promote affordability as well as ridership.

As a partner in this project the City of Beaverton has a vested interest in its success. Thus far the City has granted a \$28,000 predevelopment loan from the City's HOME program funds; is in the process of approving a \$500,000 grant through its HOME entitlement for construction; and in 2003, processed a rezone to facilitate the proposed land use. Other partner contributions allocated to the project include:

- Tri-Met - will write down the land value to \$676,000 for sale to TVHP and waive \$13,000 in system development costs.
- Washington County - has granted a \$650,000 funding allocation from its HOME program funds which will cover the cost of acquiring the site from Tri-Met and is considering an additional \$750,000 to help fund construction.
- The Washington County Community Housing Fund - has awarded the project \$50,000 in pre-development funds.
- The State of Oregon - will provide about \$10,000,000 in state tax exempt bonds and may provide the project with a 4% tax credit of \$5,500,000.

As with any affordable housing development, minimizing costs is as important as the acquisition of funding resources to project success. An important cost component which can be considered involves the payment of permit fees and system development charges (SDCs). The Merlo Station project is projected to cost about \$18 million, and SDC and permit costs

account for 6% of the overall budget (approximately \$1,100,000). In an attempt to reduce these costs, TVHP has approached the City to request a development and building permit fee waiver as well as some form of SDC assistance (see letter attached).

### **Staff Proposal**

The City of Beaverton can play a role in supporting TVHP's efforts by providing them with assistance in receiving project financing and two kinds of funding assistance that will not only enhance their ability to increase their output of affordable units, but will direct resources toward the development of units serving residents that make under 30% MHI. Staff is proposing the City commit to do the following:

1. **Building Permit Certification Letter:** The City Building Official would issue a letter for this project at the time a building permit application is deemed complete except for payment of SDCs, certifying that all building plan review criteria have been satisfied and the developer is authorized to begin construction once system development charges have been paid. This action will allow TVHP to pay SDCs with proceeds from their construction loan, solving a key cash flow issue that otherwise raises costs and ultimately rents.

2. **Building and Development Permits Fee Waiver:** Authorize the Community Development Director to waive all development review, site development and building / mechanical /plumbing / electrical permit fees on the project. Staff has determined the City's permit fees will account for less than 15% of all the up-front government assessments – expected to amount to approximately \$1,100,000. The remaining costs are made up of system development charges which the City has no authority to waive. Permit fees associated with the project should be in the neighborhood of \$180,000. A breakdown of these fees is provided in the table below.

Permit Fee Type	Permit fees	Rate increase	Revised Fee	New total
Building	\$99,950	0.03	\$2,999	\$102,949
Plumbing	\$19,800			\$19,800
Mechanical	\$12,900	0.05	\$645	\$13,545
Electrical	\$19,075	0.1	\$1,908	\$20,983
Erosion Control	\$9,575			\$9,575
Miscellaneous	\$1,120			\$1,120
Type 3 Design Review	\$3,532			\$3,532
Land Subdivision	<u>\$5,060</u>			<u>\$5,060</u>
				<b>\$176,563</b>

As a condition of this subsidy, staff is proposing TVHP enter into an agreement with the City, committing to maintain for the first thirty (30) years of project operation a rent level affordable to households at 60% MFI for all units. The agreement will specify the developer will be required to provide documentation which verifies compliance of this income requirement on an annual basis to the City's CDBG/HOME program office. Failure

to demonstrate compliance may result in a lien on the property for the value of the waived fees and suspension of subsidy benefits awarded through the City to future TVHP projects.

3. SDC Payment Assistance: The City would pay the portion of system development charge revenues it receives that are attributable to the number of units that will be affordable over the first thirty (30) years of project operation to residents with incomes at 30% of MFI over the total number of units within the project. As mentioned previously, the City of Beaverton is limited in its ability to waive SDCs primarily because most of the services that these charges support are provided by separate jurisdictions. (In this case, that would be sewage treatment, parks and water.) The City could choose to bear the burden by itself of paying for all SDC charges for qualified units, but at this point staff thinks TVHP should approach the other governments that would receive SDC revenues from the project, CWS, THPRD and TVWD, about reducing their SDCs. If those governments are unwilling to do that, then the City could consider paying all SDCs for units affordable at 30% MFI.

As stated in the letter dated January 26, 2006 which accompanies this memo, the savings generated from SDC payment subsidies totaling \$75,000 could reduce the rents on a mix of ten 3-bedroom, 2-bedroom, and one-bedroom apartments from levels affordable to families earning 60% MFI to levels affordable to those at 30% MFI. Under this proposal, the City's portion of the SDC subsidy would total about \$22,000 with CWS, THPRD and TVWS picking up the balance. This would permit the developer to reduce the rents of eight units below the 30% MFI mark. As with conditions specified under the proposed fee waiver award, compliance procedures will be established and enforced.

Taken together, the costs associated with this award should not exceed \$200,000. Development Code Section 10.55.2 states "The Council may reduce or waive required fees upon a showing of just cause to do so." Having successfully completed various other affordable housing projects in the past which include Fir Crest (a 59-unit complex), Spenser House (a 48-unit complex), and the recently developed Bridge (a 12-unit complex for developmentally disabled adults), TVHP has established a successful record of its ability to partner with the City to advance the goal of serving the area's low income population. The permit fee waivers, certification letter, and SDC payment subsidy will not only help the project pencil out, but may be used to match other forms of financial assistance for the project. Further, the SDC contribution would succeed in encouraging developers to focus on projects that cater specifically to households earning less than 30% of the Median Family Income, where the greatest need lies.

**Attachment:** Letter from Tualatin Valley Housing Partners dated January 26, 2006 requesting a City permit fee waiver.



## **Tualatin Valley Housing Partners**

*A Community Development Corporation  
Serving Washington County*

January 26, 2006

Jeff Salvon  
Associate Planner  
City of Beaverton  
POBox 4755  
4755 SW Griffith Drive  
Beaverton OR 97076

RE: Affordable Housing Policies  
Building Permit Fee Waiver

Dear Jeff:

TVHP's affordable housing projects have benefited greatly from the supportive efforts of the City of Beaverton over the last 10 years. Each of our 3 projects in Beaverton has received a different mix as is appropriate. We're also pleased to see the movement toward more comprehensive policies.

Two years ago you provided our project for the developmentally developed with a building permit waiver that helped not only with the cost, but the timing of paying for pre-development costs. It is almost always difficult for a non-profit to obtain easy access to funds in advance of construction and even harder to build the cash reserves for this purpose.

As you know, we are aggressively pursuing the development of Merlo Station, a 128 unit affordable housing project at SW 158<sup>th</sup> and SW Merlo Road. We have had some preliminary discussions with the Community Development Department, but now we would like to formally start the formal process. It has been estimated by Brad Roast that permits will cost about \$171,012 at today's rates which could grow to as much as \$176,563 by the time of final approval in September. A waiver of these fees could allow us to reduce the rents on 8 smaller units affordable to the developmentally disabled earning less than 22% of Median Family Income (MFI).

Therefore, I am making a formal request for a waiver or contribution of the costs of obtaining approvals to construct the affordable housing project at Merlo Station. We would also like permission to delay payment of SDC fees until funds are available from the initial construction loan closing which could take only a few days to as long as 1 month.

Finally, I am aware that the City is considering a plan to assist our project with some relief from the cost of SDC fees. Should we receive assistance together with the building permit waiver, we would be able to deliver up to 10 units for those at 30% of Median Family Income (MFI). According to the formula and our current pro forma, this would mean that 7.8% of the units would meet the 30% MFI program goals resulting in about \$75,000 in support from the City. TVHP would be happy to commit to this level of service as it also meets our goals. If this is possible, please consider this as a request for this additional assistance.

6160 SW Main Street, Beaverton, OR 97008  
PO Box 1505, Beaverton, OR 97075  
PH: 503-641-5437 • FX: 503-350-0707

Please let me know if you need any further information. Thank you again for your help in promoting affordable housing in Beaverton.

Sincerely,

A handwritten signature in cursive script that reads "Tom Benjamin".

Tom Benjamin  
Executive Director

6160 SW Main Street, Beaverton, OR 97008  
PO Box 1505, Beaverton, OR 97075  
PH: 503-641-5437 • FX: 503-350-0707

**AGENDA BILL****B averton City Council  
Beaverton, Oregon**

04/10/06

**SUBJECT:** Contract Award – Non-Discretionary  
Investment Advisory Services**FOR AGENDA OF:** ~~03-29-06~~ **BILL NO:** 06047**Mayor's Approval:** *Lisa G. Callahan***DEPARTMENT OF ORIGIN:** Finance *Holman***DATE SUBMITTED:** 03/10/06**CLEARANCES:** Finance  
Purchasing  
City Attorney*Holman*  
*H. H. H. H.*  
*H. B. R.***PROCEEDING:** Consent Agenda  
(Contract Review Board)**EXHIBITS:** 1. Request for Proposal  
Document (Without  
Attachments)  
2. Ranking of the Nine  
Proposals  
3. Ranking of the Top Three  
Firms**BUDGET IMPACT**

EXPENDITURE REQUIRED \$-0*	AMOUNT BUDGETED \$-0*	APPROPRIATION REQUIRED \$6,334*
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\* Funding for the FY 2005-06 Expenditure Required would be offset from the investment interest earnings on the City's investment portfolio. The payment would be monthly based upon the value of the portfolio during the month and based upon a charge of .0012% on the first \$15 Million of the assets under management and .001% for amounts above the first \$15 Million. As an example if \$35 Million was the average portfolio value for the month, the monthly charge would be \$3,167 (the first \$15,000,000 times .0012% divided by 12 months plus the second \$20,000,000 times .001% divided by 12 months). The Appropriation Required of \$6,334 will be included in the next Supplemental Budget.

**HISTORICAL PERSPECTIVE:**

The City of Beaverton's investment portfolio is actively managed by the City's Finance Department Staff. On average, the City's investment portfolio has a value of approximately \$55 Million. The portfolio consists entirely of either short-term debt securities purchased by the City or funds invested with the State's Local Government Investment Pool (LGIP). As an example, the investment portfolio for the month ended February 2006 totaled \$52.6 Million and consisted of \$27.1 Million invested in 25 debt securities and \$25.5 Million invested in the LGIP.

With regard to the specific investment securities, State law (ORS 294-035) and the City's own Investment Policy permit the City to invest in only the following types of securities:

- General Obligations of the United States, the agencies and instrumentalities of the United States or enterprises sponsored by the United States Government. (US Treasury and Agency securities)
- Time Deposits, Certificates of Deposit and Savings Accounts in State of Oregon financial institutions.
- Bankers Acceptances
- State of Oregon Local Government Investment Pool
- Corporate indebtedness (Commercial Paper) of Oregon issuers
- Corporate indebtedness (Commercial Paper) of Non-Oregon issuers
- Interest Bearing Checking or Money Market Accounts



- Debt obligations of the agencies and instrumentalities of the State of Oregon and its political subdivisions.
- Debt obligations of the agencies and instrumentalities of the States of California, Idaho and Washington and the political subdivisions of those states.

The municipal investment community is currently trending towards contracting with an outside investment management company to manage municipal investment portfolios. There are two types of investment management services available to investors: discretionary and non-discretionary. Under discretionary investment management services, portfolio operational guidelines are established between the parties and the investment management company has full discretion to manage the portfolio in conducting investment purchases and sales. Under non-discretionary investment management services, portfolio operational guidelines are also established between the parties; however, the investment management company provides recommendations to the client for the client's approval; once approved, the investment management company conducts the investment transactions. In the City's local area, the City of Gresham, Tualatin Valley Water District, and City County Insurance Services have contracted with investment management companies for non-discretionary investment management services.

Although the City currently actively manages its investment portfolio, Staff recommends that the City consider non-discretionary investment advisory services for the following reasons:

- An investment advisor can purchase investments that will yield a higher rate of return than the City. When the City purchases an investment, it purchases them in the secondary market from an investment broker/dealer usually associated with a banking or investment institution. An investment advisor has sufficient market share to procure securities in the primary market at a lesser cost to the City resulting in a higher interest earnings rate.
- An investment advisor has market-place tools to better anticipate market trends in order to position the City's investment portfolio to respond to those market advantages.
- An investment advisor will monitor the investment market and the City's portfolio every day to take advantage of the market trends; whereas, the City manages its investment portfolio when securities mature or additional cash reserves are available for investment.
- The investment advisor will assist the City in establishing a separate third-party safekeeping account for all securities purchased. A third-party safekeeping account is an account where all securities are held in one location. Currently the City's purchased securities are held in trust for the City at each of the banking institutions or brokerage companies from which they were purchased. Establishing and using a third-party safekeeping account will better serve the City's needs.

The City developed the attached Request for Proposal to solicit responses for Non-discretionary Investment Management Services (Exhibit 1 copy attached). The major services referenced in the RFP are:

1. Provide full-time, non-discretionary management of the portion of the City's investment portfolio under advisement.
2. Assist City in establishing a safekeeping account and transferring existing investments to the safekeeping account and conduct all future investment purchases through the safekeeping account on a delivery versus payment basis.
3. Comply with all federal and State of Oregon laws and ordinances, resolutions and policies of the City of Beaverton.

4. Provide assistance in developing and implementing investment strategies that will maintain or enhance portfolio quality and performance within the parameters of the City's established investment policies and cash flow needs, taking into consideration our primary objective which is "the preservation of principal."
5. Work with City's cash management staff to assure coordination of investment trades, delivery of the securities and availability of funds. Assist with trade settlements. Obtain and document competitive prices for securities transactions. Provide technical and fundamental market research, including yield curve analysis.
6. Review and update the City's current investment policy.
7. After the investment policy is updated assist in the annual review and update of the City's Investment Policy. Assist in the review of investment management procedures and portfolio documentation, as well as safekeeping and custodial procedures.
8. Perform due diligence reviews of current and proposed broker/dealers and financial institutions. Monitor the creditworthiness of the financial institutions and security issuers from which the City purchases securities. Assist in keeping the authorized financial institution list updated. Monitor the creditworthiness of the City's depository and custodian bank and investments in the portfolio.
9. As of June 30<sup>th</sup> of each year, provide market value for our outstanding investments.
10. Provide detailed reports of investment portfolio activity and performance monthly. Include earnings and accounting methodology. Reports shall follow Generally Accepted Accounting Principles (GAAP) and Governmental Accounting Standards Board (GASB) true-value reporting. Provide separate semi-annual and annual portfolio performance reports.
11. Provide City staff with ongoing training and technical advice as needed.
12. Meet with and provide information to City staff as needed. Meet periodically with staff to review and refine portfolio strategy and performance.

**INFORMATION FOR CONSIDERATION:**

On August 2, 2005, the City issued and advertised a Request for Proposal for Investment Advisory Services with a response due date of September 6, 2005. Nine proposals were received by the response due date from the following firms:

1. MBIA (Municipal Bond Insurance Agency) Asset Management Group, of San Diego, California
2. DA Davidson, of Great Falls, Montana, & Portfolio Benchmark Advisors, of Portland, Oregon
3. PFM (Public Financial Management) Asset Management, LLC, of San Francisco, California
4. Chandler Asset Management, of San Diego, California
5. Seattle Northwest Asset Management, of Seattle, Washington
6. US Bank Institutional Trust and Custody, of Portland, Oregon
7. Voyageur Asset Management, Incorporated, of Minneapolis, Minnesota
8. First Southwest Company, of Dallas, Texas
9. Hammond Associates Institutional Fund Consultant, Incorporated, of St. Louis, Missouri

Staff evaluated the nine proposals and selected the top three firms to provide an onsite presentation to the City (see Exhibit 2 for matrix on the evaluation of proposals). The top three firms were:

1. MBIA Asset Management Group, of San Diego, California

2. Chandler Asset Management, of San Diego, California
3. PFM Asset Management, LLC, of San Francisco, California

The on-site presentations were held on February 2, 2006. A team of five staff members consisting of the Finance Director, Assistant Finance Director, Senior Accountant, Purchasing Agent, and a City Attorney evaluated the presentations. The on-site presentations were evaluated independently from the first scoring of the proposals. The rankings from the first scoring (Exhibit 2) did carry forward and were not considered in evaluating the on-site presentations. Based upon the on-site presentations, staff selected the firm of PFM Asset Management, LLC, of San Francisco, California as the firm that will best meet the City's requirements (see Exhibit 3 for the evaluation matrix).

The major evaluation components where PFM surpassed the other two firms were in the presentation:

- PFM solely serves the public sector. Both MBIA and Chandler have other non-public sector clients.
- PFM's services in establishing a third-party safekeeping account were superior to the services proposed and explained by both MBIA and Chandler.
- PFM demonstrated that they had researched the City's current operations (budget and financial statements) and understood the City's requirements above the levels of MBIA or Chandler.
- PFM's depth of staff assigned to the City and the services to be provided were superior to both MBIA and Chandler.

Under the RFP's cost proposal section, most of the responding firms (including PFM) quoted the cost of their services as a percentage of the average portfolio value (typically called the value of assets under management). PFM's pricing consists of two components:

- For the first \$15 Million of assets under management, the price is .0012% annually or .0001% on a monthly basis.
- For the amount of assets under management over the first \$15 Million, the price is .001% annually or .00008333% on a monthly basis.

The City anticipates that the monthly amount of assets under management will average between \$30 to \$40 Million depending upon the time of year and the amount of funds the City elects to retain in the LGIP. The following would be PFM's monthly costs for investment advisory services at various levels of assets under management:

- \$2,750 for \$30 Million in assets under management
- \$3,167 for \$35 Million in assets under management
- \$3,583 for \$40 Million in assets under management

Funding for the cost of investment management services would be offset from the interest earnings on the investments under management and an appropriation of \$6,334 will be included in the next Supplemental Budget to pay that cost. Staff recommends that the City enter into a contract with PFM Asset Management for non-discretionary investment advisory services. PFM Asset Management, LLC is a major firm in the industry with \$21 Billion in assets under management in 548 public sector portfolios and a staff level of 143. By comparison MBIA has \$51 Billion in assets under management in 163 public sector portfolios and 100 staff members and Chandler has \$2.5 Billion in assets under management in 38 public sector portfolios and 11 staff members.

**RECOMMENDED ACTION:**

Council, acting as Council Review Board, select the firm of PFM Asset Management, LLC, of San Francisco, California, for Non-Discretionary Investment Advisory Services and direct staff to enter into a contract with PFM in a form acceptable to the City Attorney.

# ***CITY OF BEAVERTON, OREGON***



## ***REQUEST FOR PROPOSAL FOR INVESTMENT ADVISORY SERVICES***

**DATE & TIME DUE: September 6, 2005 at 2:00 PM**

**Mayor**  
Rob Drake

### **City Councilors**

Cathy Stanton

Betty Bode

Catherine Arnold

Fred Ruby

Dennis Doyle

### ***SUBMIT PROPOSAL TO:***

City of Beaverton  
Purchasing Division  
4755 SW Griffith Drive  
Beaverton, OR 97005  
503-526-2228



City of Beaverton, Purchasing Office  
4755 SW Griffith Dr.  
PO Box 4755  
Beaverton, Oregon 97076  
Phone – 503-526-2229/ Fax - 503-526-2490  
<http://www.beavertonoregon.gov>

TO: All Interested Parties

FROM: City of Beaverton, Purchasing Office

RE: **Instructions for obtaining solicitation documents and addendums  
from the City of Beaverton Web site**

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The City of Beaverton offers certain solicitation documents for downloading from the City's Web site. The City requires each prospective bidder or proposer downloading these documents to follow the specific requirements detailed below. If the potential bidder or proposer does not comply with these requirements they risk the possibility of not receiving a complete solicitation packet and may be deemed a non-responsive bidder.

Please note that the solicitation available for download is the original document released to the public.

Bidders may visit the City's Web site in order to "Register", to receive email notification of "Addendums" issued for a specific bid document. To receive automatic email notification of Addendums, please go to the Bid Registration System at [www.beavertonoregon.gov/bids](http://www.beavertonoregon.gov/bids). This site will allow you to register and then subscribe to the specific bid or proposal that you are downloading. Once you have subscribed for a specific bid or proposal you will receive an email notification of any addendums issued for that specific bid. Upon receipt of the email notification, bidders are responsible to download the document from the "Current Bid & Proposal Opportunities" site [www.beavertonoregon.gov/departments/finance/finance\\_bids.html](http://www.beavertonoregon.gov/departments/finance/finance_bids.html).

**CITY OF BEAVERTON  
REQUEST FOR PROPOSAL  
FOR  
INVESTMENT ADVISORY SERVICES**

The City of Beaverton is requesting proposals from qualified firms to provide investment advisory services. Firms are invited to submit a proposal outlining their experience and qualifications in performing work directly related to the services required.

Sealed proposals will be received until 2:00 P.M. on September 6, 2005, Terry Muralt, Purchasing Agent at 4755 SW Griffith Dr., Beaverton, Oregon 97076. There will be no formal opening. Facsimile proposals will not be accepted. Proposals will not be accepted after the stated opening date and time. Late proposals will be returned to the vendor unopened.

Proposal packets may be downloaded from [www.beavertonoregon.gov](http://www.beavertonoregon.gov) or may be obtained at the address listed above or by calling Terry Muralt at 503-526-2229.

Proposers are required to certify non-discrimination in employment practices, and identify resident status as defined in ORS 279.029. Pre-qualification of proposer is not required. All proposers are required to comply with the provisions of Oregon Revised Statutes and Beaverton's Purchasing Code.

The City of Beaverton reserves the right (1) to reject any or all proposal not in compliance with public bidding procedures, (2) to postpone award of the contract for a period not to exceed sixty (60) days from date of proposal opening, (3) to waive informalities in the proposals, and (4) to select the proposal which appears to be in the best interest of the City.

PUBLISHED:           Daily Journal of Commerce  
DATE:                 August 2, 2005

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# **REQUEST FOR PROPOSAL FOR INVESTMENT ADVISORY SERVICES**

## **I. INTRODUCTION**

City of Beaverton, Oregon, has long been committed to excellence in fiscal administration, striving for the highest standards of performance and accountability. Because the responsibility for the safety and liquidity of governmental funds cannot be delegated to an investment advisor, the City is inviting competitive proposals from qualified and experienced investment advisory firms to assist with the management and performance of the City's investment portfolio by providing non-discretionary management of the portfolio. Non-discretionary management requires that the City maintain control of investments by requiring the advisor to obtain approval for all investment transactions. The object of requesting proposals is for the City to determine which institution can offer the highest quality of service at the most reasonable cost.

We encourage you to be creative and educational in your responses. While your format must be consistent with the requirements of the RFP, if you believe that your proposed solution or services would be beneficial to the City, we invite you to offer them.

## **II. TIMELINES**

### **A. Proposed Timelines**

August 2, 2005	Advertisement and Release of Proposals
September 6, 2005 at 2:00 P.M.	Deadline for Submission of Proposals
October 3 through 7, 2005	Interviews (if necessary)
November 7 or 14, 2005	Award of Contract by Contract Review Board
December 15, 2005	Commencement of Services

**NOTE:**        *The City reserves the right to modify this schedule at the City's discretion. Proper notification of changes will be made to all interested parties.*



### **III. SCOPE OF WORK**

#### **A. Summary of Services Required**

Contractor will provide the City of Beaverton with the following services:

1. Provide full-time, non-discretionary management of the portion of the City's investment portfolio under advisement. Presently, it is estimated that the advisor may manage approximately \$30 to \$ 45 million or more.
2. Assist City in establishing a safekeeping account and transferring existing investments to the safekeeping account and conduct all future investment purchases through the safekeeping account on a delivery versus payment basis.
3. Comply with all federal and State of Oregon laws and ordinances, resolutions and policies of the City of Beaverton.
4. Provide assistance in developing and implementing investment strategies that will maintain or enhance portfolio quality and performance within the parameters of the City's established investment policies and cash flow needs, taking into consideration our primary objective which is "the preservation of principal."
5. Work with City's cash management staff to assure coordination of investment trades, delivery of the securities and availability of funds. Assist with trade settlements. Obtain and document competitive prices for securities transactions. Provide technical and fundamental market research, including yield curve analysis.
6. Review and update the City's current investment policy (See Attachment "C").
7. After the investment policy is updated assist in the annual review and update of the City's Investment Policy. Assist in the review of investment management procedures and portfolio documentation, as well as safekeeping and custodial procedures.
8. Perform due diligence reviews of current and proposed broker/dealers and financial institutions. Monitor the credit worthiness of the financial institutions and security issuers with which the City does business. Assist in keeping the authorized financial institution list updated. Monitor the creditworthiness of the City's depository and custodian bank and investments in the portfolio.
9. At June 30<sup>th</sup> of each year, provide market value for our outstanding investments.
10. Provide detailed reports of investment portfolio activity and performance monthly. Include earnings and accounting methodology. Reports shall follow Generally Accepted Accounting Principles (GAAP) and Governmental Accounting Standards Board (GASB) true-value reporting. Provide separate semi-annual and annual portfolio performance reports.
11. Provide City staff with ongoing training and technical advice as needed.

12. Meet with and provide information to City staff as needed. Meet periodically with staff to review and refine portfolio strategy and performance.

## **B. General Information**

The City of Beaverton, Oregon was incorporated in 1893 and operates under the provisions of its own charter and applicable State law, with a Mayor-Council form of government. The Mayor is the Chief Executive of the City and chairs City Council meetings. The Mayor does not vote, except in the event of a tie. The Mayor may veto an ordinance or other legislative enactment; the Council may override the veto by a four-fifths vote. The City Council (the "Council") is comprised of five members. The Mayor serves a four-year term. The five Council members are part-time elected officials who exercise the legislative powers of the City and determine matters of policy. Beaverton has a population of 79,350 and is located approximately nine miles west of Portland, Oregon.

## **IV. PROPOSAL CONTENT AND FORMAT**

To provide a degree of consistency in review of the written proposals, please format your response in the following order.

1. Title Page  
Proposer should identify the RFP subject, name and title of contact person, address, telephone number, fax number, email address and date of submission.
2. Table of Contents  
The table of contents should include a clear and complete identification by section and page number of the materials submitted.
3. Transmittal Letter (Two pages)  
The letter should address the institution's willingness and commitment, if selected, to provide the services offered, and why the institution believes it should be selected. The letter should be addressed to Patrick O'Claire, Finance Director and signed by the Relationship Manager who would be assigned to the City's account. Please provide all contact telephone and fax numbers, e-mail addresses and addresses of your facility/facilities.

## **V. TECHNICAL SPECIFICATIONS AND FEATURES**

Please provide detailed information on the specifications and features of the proposed investment advisory services as listed below. Please provide answers in this format and as straightforwardly as possible.

1. List examples of your firms' cash management advisory services. State the dollar value of the assets and the number of portfolios the firm has under direct and continuous management, categorized between public sector and other clients.
2. Describe the firm's research capability and resources (e.g. Bloomberg, PMA Ratings, Sheshunoff Ratings, etc)

3. Identify the key personnel of your firm who would be directly involved in providing services to the City and provide professional credentials including licenses. Describe their relationship with your firm, their experience in the investment business, and specifically with public sector cash management and investments, and their years of service to your firm, identify the role they would play in this engagement.
4. Describe any Securities and Exchange Commission (SEC) regulatory censure or litigation related to services that your firm provides.
5. Provide a copy of the firm's most recent ADV, Part I and II (including Schedule 1), as on file with the Securities and Exchange Commission. Is the firm registered in the State of Oregon?
6. The successful proposer will be required to secure and maintain appropriate insurance coverage: Worker's Compensation, Professional Liability of \$5 million, Fidelity Bond of \$5 million, and General Liability of \$5 million. Proof of such coverage, in the form of a broker-issued certificate, must be received by the City prior to the beginning of the contract date.
7. Can your firm provide proof of coverage in the form on certificates of insurance for these dollar amounts?
8. Proposers must have experience in providing investment advisory services for other large institutions, preferably cities and local governments. Submit the names of five clients that may be contacted as references, two of which have been clients for at least three years. Include the name of the company, address, and contact name and telephone number for each.
9. Provide performance statistics on investment portfolios, currently under your management, which are similar to the City's portfolio. Describe how it was calculated and compare the industry averages or appropriate benchmarks
10. Describe your firm's investment management process. Describe the strategies that will be used to enhance the performance of the City's investment portfolio while complying with the City's investment policy.
11. Describe your firm's daily procedures for portfolio review, investment management and client contact.
12. Identify the types of securities held in your portfolios. Describe the types of investment research your firm uses and the methodology used to recommend investment decisions (including maturity and sector selections).
13. Describe the possible communications formats and include security techniques, including hardware and software discussion.
14. Submit samples of reports that would be provided and describe their frequency. Include methods and formulas used to calculate return and performance. Reports must be prepared in accordance with generally accepted accounting principles (GAAP) and in compliance with Governmental Accounting Standards Board (GASB) pronouncements, including GASB Statement 31.

15. How often would the representative from your firm meet with the City staff to review portfolio performance and revise investment strategies?
16. Does your firm offer reconciliation services for third party safekeeping? If yes, please describe and include a sample of your standard reports.
17. Describe your electronic reporting, file transmission and history retrieval.
18. Describe the transition/conversion and training processes that you would provide to the City.
19. What new services or features does the firm plan to offer in the future?
20. Discuss overnight investment options such as Sweep Accounts and Repurchase Agreement (REPO) that maybe available to maximize the City's earnings potential. If a REPO is proposed: discuss what agreement formats are acceptable.
21. Describe the method the financial institution utilizes for transfers to/from the State of Oregon Local Government Investment Pool (LGIP). Also discuss customized portfolio management services for cash reserves.
22. Provide a corporate overview of your financial institution, the year it was established, ownership, and any subsidiary and affiliate relationships relevant to this account: the type of services available and the size of staff.
23. Furnish disclosure statement of involvement in any civil or criminal litigation or investigation regarding your business practices during the past five years.

## **VI. COST PROPOSAL REQUIREMENTS FOR INVESTMENT ADVISOR**

Please provide detailed information of the non-discretionary management costs in the questions below. In order for City staff to adequately compare and evaluate proposals objectively, all proposals must address each question and be answered in simple and straightforward language.

1. Provide a non-discretionary fee schedule that would apply to the City's account. Describe the methodology used (e.g. flat fee, percentage of assets under management).
2. What expenses are covered under the non-discretionary fee schedule?
3. Identify any fees and expenses that would not be covered under this non-discretionary fee schedule which may be required by this RFP.
4. Indicate what direct costs the City would be responsible for in the conversion. Indicate what conversion costs, if any, would be absorbed by the firm as a start-up cost?

## **VII. PROPOSER MINIMUM QUALIFICATIONS**

Investment advisors wishing to submit proposals must meet or exceed the following criteria. Please respond to each of the nine criteria. Any exception to these criterion must be explained and will be subject to the City' approval.

1. Advisor shall be a Registered Investment Advisor as defined and regulated by the Securities and Exchange Commission (SEC) and shall be registered in the State of Oregon.
2. Investment service providers may include qualified banks that provide investment advisory services in the Pacific Northwest.
3. Advisor shall be completely independent of any financial institution or securities brokerage firm, or shall fully disclose any such relationships relevant to the firm's relationship to the City.
4. Advisor shall have a minimum of five years experience in managing government operating and construction bond proceeds.
5. Advisor shall have a minimum of \$1 billion dollars in assets under ongoing management.
6. Advisor must be knowledgeable of Oregon government investments statutes and become knowledgeable of the City of Beaverton's investment policy.
7. Advisor must meet the insurance requirements as set forth in this RFP.
8. All solicitations for securities from securities dealers must be affiliated with an Oregon bank or have an office located and be licensed in the State of Oregon.
9. All financial institutions, advisors and broker/dealers interested in supplying investment services must provide
  - a. audited financial statements for the previous two years,
  - b. proof of registration as a business in the State of Oregon,
  - c. certification of having read, understood and agreeing to comply with the City's investment policy, attached as Attachment "C" hereto

## **VIII. PROPOSER'S SPECIAL INSTRUCTIONS**

### **A. General**

By submitting a proposal, the Proposer certifies that the Proposal has been arrived at independently and has been submitted without any collusion designed to limit competition.

### **B. Proposal Submission Requirements**

1. Submit a minimum of one original (hard copy) and one electronic of proposal.
2. To be considered each submittal shall contain the following:
  - a. Signed and Dated Signature Page - Attachment "A"
  - b. Acknowledgement that the City's Personal Service Contract is acceptable or includes exceptions
  - c. Order of proposal submission in Section IV – Proposal Content and Format
  - d. Responses to the Section V – Technical Specifications and Features
  - e. Responses to Section VI – Cost Proposal Requirements for Investment Advisor
  - f. Responses to Section VII – Proposer Minimum Qualifications

3. **Proposals and all amendments must be signed and submitted no later than 2:00 PM on September 6, 2005**, to the address below. Proposals must be submitted in a sealed envelope and designated with the proposal title. To assure that your proposal receives priority treatment, please mark as follows.

**Response to Request for Proposal - Investment Advisory Services**

Due: September 6, 2005 at 2:00 P.M. Pacific Standard Time

City of Beaverton

Terry Muralt, Purchasing Agent

4755 SW Griffith Dr.

Beaverton, OR 97076

**PROPOSERS SHALL PUT THEIR NAME, ADDRESS ON OUTSIDE OF ENVELOPE.**

It is the proposer's responsibility to ensure that proposals are received on or until the stated closing time. The City shall not be responsible for the proper identification and handling of any proposals submitted incorrectly. Late proposals, late modification or late withdrawals shall not be accepted after the stated proposal opening date and time and shall be returned unopened. **Facsimile or e-mail proposals shall not be accepted.**

**C. Submission and Signing of Proposals**

The submission and signing of a proposal shall indicate the intention of the firm to adhere to the provisions described in this RFP.

**D. Cost of Preparing a Proposal**

The RFP does not commit the City to paying any costs incurred by Proposer in the submission or presentation of a proposal, or in making the necessary studies for the preparation thereof.

**E. Interpretations and Addenda**

All questions regarding this project proposal shall be directed to Faye Rea at 503-526-2246 or email [frea@ci.beaverton.or.us](mailto:frea@ci.beaverton.or.us). If necessary, interpretations or clarifications in response to such questions will be made by issuance of an "Addendum" to all prospective Proposers within a reasonable time prior to proposal closing, but in no case less than 72 hours before the proposal closing. If an addendum is necessary after that time, the City, at its discretion, can extend the closing date.

**Proposers are responsible for checking for Addendums. Proposers may visit the City's website to "Register" to receive email notification of "Addendums" issued for a specific proposal document. Upon receipt of the email notification, the proposer is responsible to download the document from the "Current Bid & Proposal Opportunities" site [www.beavertonoregon.gov/bids](http://www.beavertonoregon.gov/bids).**

Any Addendum issued, as a result of any change in the RFP, must be acknowledged on Attachment "A" - "Signature Page" with proposal.

**Only questions answered by formal written addenda will be binding.** Oral and other interpretations or clarifications will be without legal effect.

**F. Project Administrator**

The Project Administrator will be Faye Rea at 503-526-2246 or email [frea@ci.beaverton.or.us](mailto:frea@ci.beaverton.or.us).

**G. Proposal Validity Period**

Each proposal shall be irrevocable for a period of ninety (90) days from the Proposal Opening Date.

**H. Form of Contract**

A copy of the standard "Personal Services" contract which the City expects the successful firm or individual to execute is included as **Attachment "B"**. The contract will incorporate the terms and conditions from this RFP document and the submitted proposal. **Proposers taking exception to any of the contract terms shall submit a request for change no later than 5 days before the deadline for submission of proposals or their exceptions will be deemed waived.**

**I. Term of Service**

The initial term of the service shall be one (1) year with an automatic renewal for four (4) additional one-year options. The maximum duration of the service may not exceed five (5) years.

**J. Public Records**

All proposal material submitted by proposer shall become the property of the city and a public record. During the evaluation and selection process, city shall treat proposal materials as exempt from public inspection. After the selection process is completed and notice of intent to award a contract has issued, city shall treat proposal materials as open to public inspection, unless exempt from public inspection by provision of applicable state or federal law. Information within a proposal that proposer considers a trade secret should be segregated and clearly identified as such. City shall treat such segregated and clearly identified trade secret information as exempt from public inspection at all times, including after notice of intent to award a contract has issued, to the extent permitted in the Oregon Public Records Law (ORS 192.410 to 192.505).

**K. Non-Discrimination and Affirmative Action Program**

The City of Beaverton is an equal opportunity employer and requires all contractors to comply with policies and regulations concerning equal employment opportunity.

The investment advisory service, in the performance of this Agreement, agrees not to discriminate in its employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, age, or physical handicap.

**L. Disputes**

Should any doubt or difference of opinion arise between the City and a Proposer as to the items to be furnished hereunder or the interpretation of the provisions of this RFP, the decision of the City shall be final and binding upon all parties.

## **IX. PROPOSAL EVALUATION AND AWARD PROCEDURES**

### **A. Selection and Evaluation Process**

A selection committee consisting of city staff with relevant expertise in the subject matter of this solicitation will review submitted proposals. Committee members will evaluate proposals to determine which one best meets the needs of the city. Evaluation will be based on the following described criteria and methods.

Each selection committee member will use the following criteria listed in the table below to evaluate submitted proposals. Each evaluation criteria is given a maximum score, reflecting its importance in the city's selection process. The table below shows the evaluation criteria and maximum score relevant to this solicitation.

<b>Proposal Content and Evaluation Criteria</b>	<b>Maximum Score</b>
Signature Page – Attachment A	Pass/Fail
Transmittal Letter	Pass/Fail
Response to Technical Specifications and Features (Section V)	50
Qualifications (Section VII)	30
Cost of Services (Section VI)	20
<b>Maximum Points</b>	<b>100</b>

### **B. Interview**

At the city's option, the top three firms may be required to make a presentation of their proposal. This will provide an opportunity to clarify or elaborate on the proposal, but will not, in any way, provide an opportunity to change any fee amount originally proposed. The Project Administrator will schedule the time and location of these presentations (if necessary) and notify the selected firms.

Should the top three firms be selected for oral interviews, the invited firms will be evaluated based on the same criteria as outlined above. The firm with the highest point total resulting from any interview will be considered the best proposer. The points from the first evaluation will not be added to or otherwise made a factor in scoring of the second evaluation.

### **C. Investigation of References**

The City reserves the right to investigate references and the past performance of any proposer with respect to its successful performance of similar advisory services, compliance with specifications and contractual obligations, its completion or delivery of a project on schedule and its lawful payment of employees and workers.

### **D. Clarification of Proposals**

The City reserves the right to obtain clarification of any point in a firm's proposal or to obtain additional information necessary to properly evaluate or particular proposal. Failure of a Proposer to respond to such a request for additional information or clarification could result in rejection of the firm's proposal.



#### **E. Intent of Award**

Upon review of the proposals submitted, the City may negotiate a scope of work and Personal Service contract with one firm.

#### **F. Award Recommendation**

The Notice of Intent to Award shall be the City's recommendation contained in the agenda item published in the City's Council Agenda. Agendas for Council meetings are posted on the City website at: [www.beavertonoregon.gov](http://www.beavertonoregon.gov).

The decision by the Contract Review Board to award the contract shall constitute the final decision of the City to award the Contract.

#### **G. Proposal Rejection**

The City reserves the right:

- 1) To reject any or all proposals not in compliance with all public procedures and requirements;
- 2) To reject any proposal not meeting the specifications set forth herein;
- 3) To waive any or all irregularities in proposals submitted;
- 4) To reject all proposals;
- 5) To award any or all parts of any proposal; and
- 6) To request references and other data to determine responsiveness.

**City of Beaverton  
Schedule of Proposal Review & Ranking  
Investment Advisory Services**

**Exhibit 2**

	<b>Possible Points or Response</b>	<b>MBIA</b>	<b>DA Davidson</b>	<b>PFM</b>	<b>Chandler</b>	<b>SNW</b>	<b>US Bank</b>	<b>Voyageur</b>	<b>First Southwest</b>	<b>Hammond</b>
<b>Overall Ranking</b>		<b>1</b>	<b>4</b>	<b>2</b>	<b>3</b>	<b>8</b>	<b>7</b>	<b>5</b>	<b>6</b>	<b>9</b>
<b>Section IV</b>										
<b>Proposal Content and Format</b>										
1 Title Page	<b>Yes</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2 Table of Contents	<b>Yes</b>	Yes	Yes	Yes	Yes	Yes	Yes but minimal	Yes	Yes	Yes but minimal
3 Transmittal Letter (two pages)	<b>Pass or Fail</b>	<b>Pass</b>	<b>Pass</b>	<b>Pass</b>	<b>Pass</b>	<b>Pass</b>	<b>Pass</b>	<b>Pass</b>	<b>Pass</b>	<b>Fail Letter was for State of Montana</b>
<b>Section VIII</b>										
<b>Proposer's Special Instructions</b>										
1 Submit a minimum 1 hard and 1 electronic copy.	<b>Yes</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2 To be considered each submittal shall contain the following:										
a Signed and Dated Signature Page - Attachment "A"	<b>Pass or Fail</b>	<b>Pass</b>	<b>Pass</b>	<b>Pass</b>	<b>Pass</b>	<b>Pass</b>	<b>Pass</b>	<b>Pass</b>	<b>Pass</b>	<b>Pass</b>
b Acknowledgement that the City's Personal Service Contract is acceptable or includes exceptions	<b>Yes</b>	Yes	Use their standard contract	Yes	Yes	16 changes to the contract	Did not address	Did not address	Did not address	Did not address
c Order of proposal submission in Section IV – Proposal Content and Format	<b>Yes</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Response to another RFP
d Responses to the Section V – Technical Specifications and Features	<b>Yes</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Response to another RFP

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**City of Beaverton  
Schedule of Proposal Review & Ranking  
Investment Advisory Services**

**Exhibit 2**

	<b>Possible Points or Response</b>	<b>MBIA</b>	<b>DA Davidson</b>	<b>PFM</b>	<b>Chandler</b>	<b>SNW</b>	<b>US Bank</b>	<b>Voyageur</b>	<b>First Southwest</b>	<b>Hammond</b>
e Responses to Section VI – Cost Proposal Requirements for Investment Advisor	<b>Yes</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Response to another RFP
f Responses to Section VII – Proposer Minimum Qualifications	<b>Yes</b>	Yes	Yes	Yes though only one page	Yes	Yes	Yes but minimal responses	Yes	Yes	Response to another RFP
<b>Section V Technical Specifications and Features</b>	<b>50.00</b>	<b>45.00</b>	<b>35.00</b>	<b>45.00</b>	<b>40.00</b>	<b>28.00</b>	<b>30.00</b>	<b>40.00</b>	<b>38.00</b>	<b>0.00</b>
<b>Section VI Cost Proposal Requirements</b>	<b>20.00</b>	<b>15.51</b>	<b>19.75</b>	<b>7.25</b>	<b>8.01</b>	<b>1.25</b>	<b>0.50</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Section VII Proposer Minimum Qualifications</b>	<b>30.00</b>	<b>28.00</b>	<b>15.00</b>	<b>24.00</b>	<b>26.00</b>	<b>15.00</b>	<b>20.00</b>	<b>25.00</b>	<b>24.00</b>	<b>0.00</b>
<b>Total Scoring</b>	<b>100.00</b>	<b>88.51</b>	<b>69.75</b>	<b>76.25</b>	<b>74.01</b>	<b>44.25</b>	<b>50.50</b>	<b>65.00</b>	<b>62.00</b>	<b>0.00</b>
<b>Overall Ranking</b>		<b>1</b>	<b>4</b>	<b>2</b>	<b>3</b>	<b>8</b>	<b>7</b>	<b>5</b>	<b>6</b>	<b>9</b>
<b>Sample Annual Costs Based Upon Various Portfolio Sizes</b>										
30 Million Portfolio		\$ 27,000	\$ 28,000	\$ 33,000	\$ 33,000	\$ 42,000	\$ 45,000	\$ 70,000	\$ 80,000	\$ 90,000
35 Million Portfolio		\$ 30,500	\$ 28,000	\$ 38,000	\$ 37,500	\$ 49,000	\$ 52,500	\$ 77,500	\$ 80,000	\$ 97,500
40 Million Portfolio		\$ 34,000	\$ 28,000	\$ 43,000	\$ 42,000	\$ 52,000	\$ 60,000	\$ 85,000	\$ 80,000	\$ 105,000
45 Million Portfolio		\$ 37,500	\$ 28,000	\$ 48,000	\$ 46,500	\$ 58,500	\$ 67,500	\$ 92,500	\$ 80,000	\$ 112,500

**City of Beaverton  
Ranking of Top Three Firms  
On-site Presentation on Request for Investment Advisory Services**

	Maximum Points	PFM	Chandler	MBIA
Technical Specifications				
Preparedness of Presentation Materials and General RFP Responsiveness	15	15	11	10
Express Knowledge of City's Operations	15	15	9	10
Understanding of City's Requirements	10	10	8	8
Qualifications of Staff and Services Provided to City Staff	10	10	7	7
	<u>50</u>	<u>50</u>	<u>35</u>	<u>35</u>
Proposer Minimum Qualifications				
Experience of Organization	10	10	8	10
Depth of Organization	10	10	6	9
Meets or Exceeds Insurance Requirements	10	10	5	10
	<u>30</u>	<u>30</u>	<u>19</u>	<u>29</u>
Cost Proposal				
Cost	20	12	13	20
	<u>100</u>	<u>92</u>	<u>67</u>	<u>84</u>

## AGENDA BILL

### Beaverton City Council Beaverton, Oregon

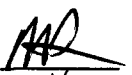

**SUBJECT:** An Ordinance Amending Ordinance 4187, The Comprehensive Plan, to Clarify that the Tualatin Hills Park and Recreation District (THPRD) is the Primary Parks and Recreation Provider for the Citizens of the City of Beaverton, CPA 2005-0008

**FOR AGENDA OF:** 4/10/06 **BILL NO:** 06058

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** CDD 

**DATE SUBMITTED:** 3/15/06

**CLEARANCES:** City Attorney   
Planning Services 

**PROCEEDING:** First Reading

- EXHIBITS:**
1. Ordinance
  2. Planning Commission Order 1842
  3. Planning Commission Minutes
  4. Staff Report Dated 12/23/05
  5. Memorandum Dated 2/14/06

### **BUDGET IMPACT**

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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### **HISTORICAL PERSPECTIVE:**

Tualatin Hills Park and Recreation District (THPRD) was established in 1955 and its boundaries now include most of the City of Beaverton and its assumed Urban Services Area. Over the years THPRD has expanded and improved its facilities and services to a level which contributes significantly to the quality of life in the community. Lack of availability of such facilities and services to occupants of new development would detract from their quality of life.

### **INFORMATION FOR CONSIDERATION:**

The attached Ordinance would amend "Section 5.8 Parks and Recreation" of the Comprehensive Plan to clarify that THPRD is the primary parks and recreation provider to the citizens of Beaverton. The proposed amendment includes the addition of an action statement directing amendment of the Development Code to require owners of properties outside of THPRD proposed for development to annex to the district. This is being proposed to support amendments to the Development Code that would require any property in the City that is the subject of a Conditional Use, Design Review and/or Land Division to annex to THPRD unless they qualify for a waiver.

### **RECOMMENDED ACTION:**

First Reading

## ORDINANCE NO. 4387

### **AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN, ORDINANCE 4187, AS AMENDED, TO CLARIFY THAT THE TUALATIN HILLS PARK AND RECREATION DISTRICT IS THE PRIMARY PARKS AND RECREATION PROVIDER FOR THE CITY OF BEAVERTON; CPA 2005-0008**

**WHEREAS,** the Tualatin Hills Park and Recreation District (THPRD) is the primary parks and recreation provider for the citizens of the City of Beaverton and the City wishes to clarify this in its Comprehensive Plan in part to comply with Statewide Planning Goal 11; and

**WHEREAS,** pursuant to Section 1.3.5 of the Comprehensive Plan, the Beaverton Planning Services Division on December 23, 2005, published a written staff report and recommendation a minimum of thirty (30) calendar days in advance of the scheduled public hearing before the Planning Commission on January 25, 2006; and

**WHEREAS,** on January 25, 2006 and February 22, 2006, the Planning Commission conducted a public hearing for CPA 2005-0008; and

**WHEREAS,** at the conclusion of the February 22, 2006 hearing, the Planning Commission voted to recommend to the Beaverton City Council adoption of the proposed amendment to the Comprehensive Plan as summarized in Planning Commission Order No. 1842; and

**WHEREAS,** no written appeal pursuant to Section 1.3.6.4 was filed by persons of record for CPA 2005-0008 following the issuance of Planning Commission Order No. 1790; and

**WHEREAS,** the City Council adopts as to criteria, facts and findings described in Planning Commission Order No. 1842 dated March 13, 2005 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now, therefore,

#### **THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:**

**Section 1.** Ordinance No. 4187, the Comprehensive Plan, as amended, is amended to read as set out in Exhibit "A" of this Ordinance attached hereto and incorporated herein by this reference.

**Section 2.** All Comprehensive Plan provisions adopted prior to this Ordinance, which are not expressly amended or replaced herein, shall remain in full force and effect.

**Section 3.** Severance Clause. The invalidity or lack of enforceability of any terms or provisions of this Ordinance or part thereof shall not impair or otherwise affect in

any manner the validity, enforceability or effect of the remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to affect the evident intent and purposes taken as a whole in so far as reasonably possible under all of the relevant circumstances and facts.

First reading this \_\_\_\_\_ day of \_\_\_\_\_, 2006.  
Passed by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2006.  
Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

Proposed additions are shown in ***bold and italicized type*** and deletions are ~~struck through~~.

### **5.8 PARKS AND RECREATION**

Parks and recreation facilities are basic and essential for the health and welfare of the community. The City coordinates the land use aspects of locating these facilities but does not predetermine sites. Location and improvement decisions for these types of facilities are the responsibility of the Tualatin Hills Park and Recreation District (THPRD), ***which is the parks and recreation provider for the City of Beaverton.***

As Beaverton and the Metro area become more densely developed, the number, location, size and quality of parks and recreation facilities have become increasingly more important. The demand for these facilities has been brought about in part by a higher standard of living; more leisure time resulting from such things as shorter work weeks, earlier retirement, and increasing life span; higher densities of development and a continuing emphasis on health and exercise. The by-products of urbanization in terms of congestion, air pollution and noise have also created a greater awareness of the need for open space in the urban environment. An adequate park and recreation system contributes to the physical and mental health of the community and can be a source of community pride.

As features in the urban landscape, parks improve the character of neighborhoods and tend to stabilize ***and improve*** property values. Also, many businesses and industries seek locations with a high level of environmental quality as a means of increasing their ability to attract and retain a stable and productive work force. ***THPRD facilities are available to residents of the district, to employees who work in the district and to others by paying an out of district fee.*** With improved transportation systems giving greater flexibility for business and industrial site selection, a well-developed park and recreation system can be an important factor in attracting such developments to the community.

THPRD is ***a special service district*** ~~independent from the City~~ with its own elected five-member Board of Directors and taxing authority. THPRD was established in 1955. THPRD's boundary includes ***almost all of the land currently within Beaverton's City limits and*** most of Beaverton's ~~assumed~~ Urban Services Area. THPRD, ~~for the most part,~~ has developed ~~its own~~ ***an*** acquisition and development plan pursuant to the adopted Tualatin Hills Park & Recreation District 20-Year Comprehensive and Trails Master Plans, which are adopted here by reference. In addition to donations and outright purchases, the THPRD works with the City and Washington County through the land development process to obtain sites by dedication.

The THPRD's plan recognizes different types of park and recreation facilities including regional, neighborhood, community and specialty parks, school parks, recreational/aquatic center, multi-use trail system plan, off-street trail corridors and natural areas along streams. These descriptive park designations relate to the function or



character of the parks shown on THPRD's 20-Year Comprehensive Park & Recreation and Trails Master Plans. As the area grows, opportunities will occur in addition to those shown on the plan. Each should be evaluated in terms of conformance with this plan's goals and policies and those of the THPRD 20-Year Comprehensive Park & Recreation and Trails Master Plans.

*The City has declared that THPRD is the park and recreation provider for the City. Almost all of the City's current land area is in the district. Statewide Planning Goal 11: Public Facilities and Services requires cities and counties: "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." This requirement for urban areas includes recreation facilities and services. Beaverton has complied with this requirement by cooperating and coordinating with THPRD and by adopting their Plans into this Comprehensive Plan by reference. The City does provide some park and recreation facilities but it has no intention of being the primary provider of these facilities or services. Most of Beaverton's unincorporated Urban Service Area is in THPRD. Some of Beaverton's Urban Services Area is not in THPRD and since the City does not intend to be the primary parks and recreation provider to those areas they need to annex to the THPRD, if they develop in the City. To comply with Goal 11 the City will require the owners of property that is proposed for development or redevelopment but not in THPRD, to annex to the District and pay THPRD System Development Charges unless it can be demonstrated the development will provide park land, recreation facilities and services at a level that is similar to that provided by THPRD.*

The Portland General Electric (PGE)/Bonneville Power Administration (BPA) transmission lines provide opportunities for open space and trail corridors in the community. These rights-of-way will not be converted to intensive urban land uses in the foreseeable future.

**5.8.1 Goal: Cooperate with THPRD in implementation of its 20-Year Comprehensive Master Plan and Trails Master Plan in order to ensure adequate parks and recreation facilities and programs for current and future City residents.**

**POLICIES:**

- a) The City shall support and encourage THPRD efforts to provide parks and recreation facilities that will accommodate growth while recognizing the limited supply of buildable land in the city for such facilities.
- b) The City shall encourage THPRD to provide parks and recreation facilities throughout the City in locations that are easily accessible to those they are intended to serve.

- c) The City shall support and encourage acquisition of park and recreation sites in advance of need so that the most appropriate sites are available for these vital public facilities.

***Action 1:** The City shall work with THPRD to further explore opportunities for mixing public park and recreation activities with revenue-generating public/private partnerships such as restaurants, recreation and aquatic centers, sports complexes, or other concession activities, in order to help finance recreation programming, park acquisition, and maintenance.*

- d) The City shall notify THPRD of development proposals that may potentially impact a present or future park site to allow the district the opportunity to comment, purchase or request dedications.
- e) A number of financial incentives exist to encourage private property owners to donate, dedicate, or provide easements for resource preservation, park, trail or open space use. The City shall work cooperatively with property owners and THPRD to maximize the use of these tools for the benefit of the community.
- f) To offset increased densities and to meet the needs of the population, the City and THPRD should work together to provide urban scale public spaces in regional centers, town centers, station communities and main street areas within the city.
- g) The planning, acquisition and development of multi-use paths should be consistent with this Plan's Transportation Element and THPRD's Trail Master Plan.
- h) The City shall encourage park acquisition and appropriate development in areas designated as Significant Natural Resources, as defined by Volume III of this Comprehensive Plan.
- i) ***THPRD is the park and recreation provider for the City of Beaverton and the City desires that all property within its boundaries be within THPRD's boundaries.***

***Action 1:** Amend the Development Code to require owners of properties applying for a conditional use, design review or land division to annex to THPRD and to pay THPRD's System Development Charges.*

BEFORE THE PLANNING COMMISSION  
FOR THE CITY OF BEAVERTON, OREGON

IN THE MATTER OF CPA 2005-0008, A	)	ORDER NO. 1842
	)	
REQUEST TO AMEND THE BEAVERTON	)	RECOMMENDING
	)	
COMPREHENSIVE PLAN (SECTION 5.8	)	APPROVAL
	)	
PARKS AND RECREATION). CITY OF	)	
	)	
BEAVERTON, APPLICANT.	)	

The matter of CPA 2005-0008 was initiated by the City of Beaverton, through the submittal of a legislative amendment application to the Comprehensive Plan.

Pursuant to the amendment procedures as described in Chapter 1 Section 1.3 of Ordinance 4187, the Comprehensive Plan, effective through Ordinance 4375, the Planning Commission conducted a public hearing on January 25, and February 22, 2006, and considered oral and written testimony and exhibits for a proposed amendment to the Comprehensive Plan.

CPA 2005-0008 proposes to make it clearer that the Tualatin Hills Park and Recreation District is the primary parks and recreation provider for the City of Beaverton and to add an action statement requiring an amendment to the Development Code to require properties that apply for a Conditional Use, Design Review, and/or Land Division to annex to the

Tualatin Hills Park and Recreation District if the property was not already in the District.

The Planning Commission adopts by reference the Staff Report dated December 23, 2005, and a Memorandum dated February 14, 2006, amendments prepared for CPA 2005-0008 and finds it provides evidence and findings demonstrating the application satisfies all the approval criteria for a Legislative Comprehensive Plan Amendment, as contained in Section 1.3.1 of the Comprehensive Plan, and therefore:

**IT IS HEREBY ORDERED** that pursuant to Section 1.3 of the Beaverton Comprehensive Plan, the Planning Commission **RECOMMENDS APPROVAL** of CPA 2005-0008 to the Beaverton City Council and adoption of the text modifications described herein.

**CARRIED** by the following vote:

**AYES:** Pogue, Kroger, Bobadilla, Maks, Winter, and Johansen.  
**NAYS:** None  
**ABSTAIN:** None.  
**ABSENT:** Stephens.

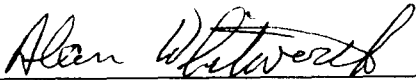
Dated this 14<sup>th</sup> day of March, 2006.

To appeal the decision of the Planning Commission, as articulated in Land Use Order No. 1842, an appeal must be filed on an Appeal form provided by the Director at the City of Beaverton Recorder's Office by no later than 5:00 p.m. on Friday March 24<sup>th</sup>, 2006.

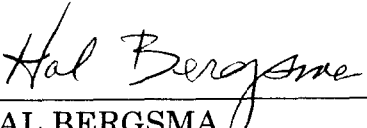
PLANNING COMMISSION  
FOR BEAVERTON, OREGON:

ATTEST:

APPROVED:

  
\_\_\_\_\_  
ALAN WHITWORTH  
Senior Planner

  
\_\_\_\_\_  
ERIC JOHANSEN  
Chairman

  
\_\_\_\_\_  
HAL BERGSMA  
Planning Services Manager

*DRAFT*

**PLANNING COMMISSION MINUTES      EXHIBIT 3**

**January 25, 2006**

**CALL TO ORDER:**

Chairman Eric Johansen called the meeting to order at 6:30 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

**ROLL CALL:**

Present were Chairman Eric Johansen, Planning Commissioners Melissa Bobadilla, Wendy Kroger, Shannon Pogue, and Richard Stephens. Planning Commissioners Dan Maks and Scott Winter were excused.

Development Services Manager Steven Sparks, Planning Services Manager Hal Bergsma, Senior Planner Colin Cooper, Senior Planner Scott Whyte, Senior Planner Alan Whitworth, Assistant City Attorney Ted Naemura, and Recording Secretary Sheila Martin represented staff.

The meeting was called to order by Chairman Johansen, who presented the format for the meeting.

**VISITORS:**

Chairman Johansen asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

**STAFF COMMUNICATION:**

Chairman Johansen opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

1 **OLD BUSINESS:**

2  
3 **CONTINUANCES:**

- 4  
5 **1. CPA 2005-0008 - COMPREHENSIVE PLAN AMENDMENT**  
6 **2. TA 2005-0009 - REQUIRE ANNEXATION TO THPRD AND**  
7 **PROVIDE WAIVER PROVISIONS**

8 *(Continued from January 4, 2006)*

9 This is a City initiated action to (1) amend the Comprehensive Plan  
10 (Section 5.8) to more clearly set forth that the Tualatin Hills Park and  
11 Recreation District (THPRD) is the primary parks and recreation provider  
12 for the City; and (2) amend the Development Code by (a) adding Section  
13 60.33 to require properties applying for a Conditional Use, Design Review  
14 or Land Division that are not in THPRD to annex to THPRD and pay  
15 their System Development Fees; and (b) adding Section 40.93 and  
16 amending Section 50.90 to allow for a waiver of this requirement for  
17 developments that provide facilities and services similar to those provided  
18 by THPRD.

19  
20 Commissioner Kroger disclosed that she currently serves as Chair of the  
21 Traffic Advisory Committee for THPRD, adding that this is a voluntary  
22 position.

23  
24 Senior Planner Alan Whitworth briefly provided background information  
25 pertaining to the proposed Comprehensive Plan Amendment and Text  
26 Amendment and offered to respond to questions.

27  
28 Referring to the summary on page 2 of the Staff Report for CPA 2005-  
29 0008, which specifically addresses Statewide Planning Goal 8  
30 (Recreational Needs), Commissioner Kroger observed that page 4  
31 indicates that this goal is not relevant to the proposed amendments to the  
32 Comprehensive Plan and Development Code, emphasizing that she finds  
33 this confusing.

34  
35 Mr. Whitworth explained that recreational needs are not an issue with  
36 these particular proposed amendments.

37  
38 Commissioner Kroger expressed her opinion that the summary of the  
39 Staff Report should conclude what is reflected in the body.

40  
41 Referring to page 9 of the Staff Report, specifically Section 1.3.1.5,  
42 Commissioner Kroger requested clarification of a sentence, as follows:  
43

1 "If residents choose to participate in THPRD's programs they can pay  
2 an out-of-district fee..."

3  
4 Commissioner Kroger questioned whether this pertains to residents or  
5 non-residents, observing that in her opinion, non-residents should be the  
6 ones to pay this out-of-district fee.

7  
8 Mr. Whitworth advised Commissioner Kroger that this pertains to those  
9 residents of the City of Beaverton who are not located within THPRD's  
10 boundaries, adding that this could be further clarified.

11  
12 Commissioner Pogue requested an explanation of how the current  
13 process would work.

14  
15 Mr. Whitworth explained that any individual developing within the City  
16 of Beaverton at this time would be required to go through the current  
17 permitting and approval process, adding that it is up to these individuals  
18 to determine whether or not they want to annex into the park district as  
19 well. He pointed out that THPRD is currently paying the fees for those  
20 who voluntarily annex into the district, adding that unless this proposal is  
21 approved, the City of Beaverton has no way to require any property to  
22 annex into the parks district even though they are not affiliated with any  
23 parks provider.

24  
25 Planning Services Manager Hal Bergsma explained that Washington  
26 County had recently adopted an ordinance requiring annexation into the  
27 park district before any development can proceed.

28  
29 Observing that this particular requirement is triggered by three different  
30 types of applications, specifically Conditional Use, Land Division, and  
31 Design Review, Chairman Johansen requested clarification of why these  
32 three applications would trigger this requirement.

33  
34 Mr. Whitworth informed Chairman Johansen that earmarking these three  
35 types of applications to trigger this requirement had been an attempt to  
36 clarify that this involves new development and not something simple such  
37 as a bathroom remodel.

38  
39 Development Services Manager Steven Sparks emphasized that the intent  
40 is not to require annexation for an individual who is simply replacing the  
41 windows in their home, adding that this proposal addresses the larger  
42 developments that would potentially bring in additional people and a  
43 greater demand on park and recreation services.  
44



1 Referring to page 7 of the Staff Report for TA 2005-0009, specifically  
2 Section 60.33.10 – Annexation to THPRD, Chairman Johansen pointed  
3 out that one of the sentences should be revised, as follows:  
4

5 “Except as provided in Section 60.33.15, the approval of conditional  
6 use, design review or land division for any property located in the  
7 City of Beaverton and not within THPRD’s boundaries shall be  
8 conditional on the submittal of a legally sufficient petition to annex  
9 the property to THPRD and the ~~delay of~~ issuance of building  
10 permits **shall be delayed** until the annexation is effective.”  
11

12 Referring to page 9 of the Staff Report for TA 2005-0009, specifically  
13 Section 40.93.15.1.C.3, Commissioner Kroger questioned whether this  
14 would include trails.  
15

16 Mr. Whitworth advised Commissioner Kroger that this proposal basically  
17 does not include trails.  
18

### 19 **PUBLIC TESTIMONY**

20  
21 **JACK PLATTEN**, planning commission alternate, questioned whether  
22 the City has any recourse if a facility is not maintained for any reason  
23 after they have granted a waiver. He questioned whether there are any  
24 lots within the City of Beaverton or lots that are likely to be annexed into  
25 the City that has parks and recreational services provided by some other  
26 public entity and would this create some overlapping jurisdictions.  
27

28 **HENRY KANE** stated that he is speaking in opposition to this proposal,  
29 expressing his opinion that the appropriate approval criterion and map  
30 was not included within the notice. He pointed out that any annexations  
31 to the City involving THPRD requires an election. He requested that the  
32 record remain open for seven days.  
33

34 Mr. Bergsma responded that the appropriate application criterion was  
35 listed in the notice, noting that Mr. Kane is referencing a different type of  
36 annexation than what is proposed at this time.  
37

38 Expressing his concern with how this proposal will affect him and his  
39 property, **MARK KOSMONSKI** stated that he is opposed to having his  
40 property annexed into the park district.  
41

42 In response to Mr. Kosmonski's concern, Mr. Bergsma responded that this  
43 proposal wouldn't affect Mr. Kosmonski unless he redeveloped his

1 property, which is defined as a Conditional Use, Design Review, and Land  
2 Division applications.

3  
4 The public portion of the Public Hearing was closed.

5  
6 Commissioner Kroger **MOVED** and Commissioner Pogue **SECONDED** a  
7 motion to **CONTINUE** CPA2005-0008 to a date certain of February 22,  
8 2006.

9  
10 **CARRIED** by the following vote:

11  
12 Motion **CARRIED** by the following vote:

13  
14 **AYES:** Kroger, Pogue, Bobadilla, Stephens, and Johansen.

15 **NAYS:** None.

16 **ABSTAIN:** None.

17 **ABSENT:** Maks and Winter.

18  
19 Commissioner Kroger **MOVED** and Commissioner Pogue **SECONDED** a  
20 motion to **CONTINUE** TA2005-0009 to a date certain of February 22,  
21 2006.

22  
23 Motion **CARRIED** by the following vote:

24  
25 **AYES:** Kroger, Pogue, Bobadilla, Stephens, and Johansen.

26 **NAYS:** None.

27 **ABSTAIN:** None.

28 **ABSENT:** Maks and Winter.




## CITY of BEAVERTON

4755 S.W. Griffith Drive, P.O. Box 4755, Beaverton, OR 97076 General Information (503) 526-2222 V/TDD

### STAFF REPORT

**TO:** Planning Commission

**HEARING DATE:** January 25, 2006

**STAFF:** Alan Whitworth, AICP, Senior Planner 

**SUBJECT:** Amendments to the Comprehensive Plan, CPA 2005-0008, to clarify that the Tualatin Hills Park and Recreation District (THPRD) is the primary parks and recreation provider for the City.

**REQUEST:** City initiated legislative amendments to the Comprehensive Plan Section 5.8 to clarify that THPRD is the primary parks and recreation provider for the City and to add an action statement to require properties that apply for a Conditional Use, Design Review or Land Division in the City of Beaverton to annex to THPRD if the property is not already in the District. This is to comply with Statewide Planning Goals 8 and 11. In a separate action, staff will be proposing amending Development Code Sections 40.93, 50.90 and 60.33 to comply with the action statement requested herein.

**APPLICANT:** City of Beaverton

**AUTHORIZATION:** Ordinance 4187 (Comprehensive Plan)

**DATE:** December 23, 2005 with January 6, 2006 amendments

**RECOMMENDATION:** Approve CPA 2005-0008 amending Comprehensive Plan Section 5.8 making it completely clear that the Tualatin Hills Park and Recreation District is the primary parks and recreation provider for the City of Beaverton and add an action statement to require properties that apply for a Conditional Use, Design Review or Land Division in the City of Beaverton to annex to THPRD if the property is not already in the District.

## SUMMARY

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Tualatin Hills Park and Recreation District (THPRD) is the primary park and recreation service provider for the City of Beaverton. Almost all of property in the City is in the Park District. However, some properties in the City and some properties that will be annexing to the City are not in the Park District. Statewide Planning Goal 8, Recreational Needs, states: "To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts." Statewide Planning Goal 11, Public Facilities and Services, states: "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." Recreational facilities and services are listed in the Goal as services the City is to make provisions for in our Comprehensive Plan. The primary way the City made provisions for park and recreation facilities and services was to adopt the Tualatin Hills Park & Recreation District's 20-Year Comprehensive Master Plan and Trails Master Plan (THPRD). THPRD is currently in the process of updating these Plans and the City of Beaverton is participating in that process. .

The proposed changes to Section 5.8 make it clear that THPRD is the primary provider of park and recreation facilities and services to City residents. In addition, an action statement is proposed that would require the City to "Amend the Development Code to require owners of property applying for a Conditional Use, Design Review or Land Division in the City of Beaverton to annex to THPRD if the property is not already in the District pay THPRD's System Development Charges." Proposed amendments to the Development Code being considered separately require annexation to the Park District when property develops in the City.

## ANALYSIS OF COMPREHENSIVE PLAN AMENDMENT

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Section 1.3.1 of the Comprehensive Plan requires that Comprehensive Plan amendments must be supported by findings of fact, based on the record, demonstrating the amendment criteria in the section have been met, to be adopted by the City Council and Planning Commission. The City Council and Planning Commission may adopt by reference facts, findings, reasons, and conclusions proposed by the City staff or others. Affirmative findings relative to all of the following criteria are the minimum required for a Plan amendment. The criteria and any applicable goals, policies and objectives are shown in ***bold italic type print***. Staff discussion follows in normal text.

## Comprehensive Plan Sections

### ***1.3.1.1 The proposed amendment is consistent and compatible with the Statewide Planning Goals***

#### **Goal One: Citizen Involvement:**

***To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.***

The City has an adopted and acknowledged Comprehensive Plan, which outlines the citizen involvement program for the land use planning process. Specifically, Chapter One: Comprehensive Plan Amendment Procedures Element describes procedures for ensuring public involvement regarding comprehensive plan amendments. These amendments are following these procedures. Thus, the City has met its obligation of providing for Citizen Involvement under Statewide Planning Goal One, as defined through the City's adopted procedures.

**Findings:** Staff finds that the City has established a citizen involvement land use planning process that complies with Goal One and criterion 1.3.1.1 is met regarding this Goal.

#### **Goal Two: Land Use Planning**

***To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.***

The City of Beaverton has adopted a Comprehensive Plan that includes text and maps (Ordinance 4187) along with implementation measures such as the Development Code (Ordinance 2050, effective through Ordinance No. 4365). These land use planning processes and policy framework form the basis for decisions and actions, such as the subject text amendment proposal. The City of Beaverton's Comprehensive Plan has been acknowledged by the State Department of Land Conservation and Development to be consistent with Statewide Planning Goals.

**Findings:** Staff finds that the City has established a land use planning and policy framework process that has been acknowledged by the State of Oregon that complies with Goal Two and criterion 1.3.1.1 is met regarding this Goal.

#### **Goal Three: Agricultural Land and Goal Four: Forrest Lands**

Goals Three and Four do not apply to the proposed amendments because they address subjects that are not directly relevant.

Findings: Criterion 1.3.1.1 is met for these proposed Amendments because they are not applicable.

**Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources**

THPRD is the primary parks and recreation provider for the residents of Beaverton and as such they play a major roll in providing open space and trails for the residents of Beaverton. Requiring properties that are proposing to develop in the City of Beaverton to annex to THPRD and pay Systems Development Charges and property taxes supports their efforts to provide open spaces and trails.

Findings: Staff finds that the requiring property that is proposing development in the City and paying the associated fees and taxes furthers the intent of Goal Five and criterion 1.3.1.1 is met regarding this Goal.

**Goal Six: Air, Water and Land Resources and  
Goal Seven: Areas Subject To Natural Hazards**

Goals Six and Seven do not apply to the proposed amendments because they address subjects that are not directly relevant.

Findings: Criterion 1.3.1.1 is met for these proposed Amendments because these two Goals are not applicable to the proposed amendments.

**Goal 8: Recreational Needs**

The title of this Goal sounds relevant to the provision of park and recreation facilities and services but in fact this Goal relates primarily to the siting of destination resorts in rural areas. This Goal is not relevant to the proposed amendments to the Comprehensive Plan and Development Code.

Findings: Criterion 1.3.1.1 is met for these proposed Amendments because this Goal applies primarily to the siting of destination resorts in rural areas is therefore not applicable to the proposed amendments.

**Goal Nine: Economic Development and  
Goal Ten: Housing**

Goals Nine and Ten are only peripherally related to requiring properties developing in the City to annex to the City's park and recreation facilities and services provider. These Goals are not applicable to the proposed amendments.

Findings: Criterion 1.3.1.1 is met for these proposed Amendments because these Goals are not applicable.

**Goal Eleven: Public Facilities and Services**

The amendments to the Comprehensive Plan and Development Code are being proposed to accomplish the intent of Goal Eleven. Goal Eleven specifically lists recreation facilities and services under the definition of Urban Facilities and Services. The goal states in part that "Urban and rural development shall be guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of urban, urbanizable, and rural areas to be served. A provision for key facilities shall be included in each plan." This indicates that recreation facilities and services, which are defined as urban facilities and services, shall be provided to support urban development and addressed in each comprehensive plan.

The City of Beaverton has made THPRD its primary parks and recreational facilities and services provider. Virtually the entire City is in THPRD but a small amount of area is not in the District and areas that will be annexed in the future may not be. The proposed amendments require development in the City to annex to THPRD and pay their System Development Charges. This is intended to support urban development in the city with a high quality park system that will be available to all City residents and people employed in the City in compliance with Goal Eleven.

Findings: This Goal is directly applicable to these proposed amendments because they are being proposed to comply with it. Criterion 1.3.1.1 is met for these proposed amendments because they further and implement this Goal.

**Goal Twelve: Transportation,**

**Goal Thirteen: Energy Conversation,**

**Goal Fourteen: Urbanization,**

**Goal Fifteen: Willamette River Greenway,**

**Goal Sixteen: Estuarine Resources,**

**Goal Seventeen: Coastal Shorelands,**

**Goal Eighteen: Beaches and Dunes, and**

**Goal Nineteen: Ocean Resources**

None of these Goals are relevant to the proposed amendments to require annexation to THPRD. Annexation to THPRD will not affect the transportation system, have an impact on energy conservation and Beaverton is already urbanized. The remaining Goals are either site specific or natural resource specific and none of these apply to land inside of Beaverton or adjacent to it.

Findings: Criterion 1.3.1.1 is met for these proposed Amendments because these Goals are not applicable.

***1.3.1.2. The proposed amendments are consistent and compatible with Metro Regional Urban Growth Goals and Objectives and the Metro Regional Framework Plan;***

The City is only required to address issues in the Urban Growth Management Functional Plan, which is an Element of the Framework Plan. The Titles of that Element are addressed below.

**Title 1: Requirements for Housing and Employment Accommodation**

Requiring new development to annex to THPRD will not impact the availability of either housing or employment. This Title requires that there be a twenty year supply of land to accommodate housing and employment needs. The primary ways that this is accomplished is by expanding the Growth Boundary and by increasing capacity within the existing boundary. Capacity within the current boundary is increased through increased density which is accomplished through zoning.

**Title 2: Regional Parking Policy**

These proposed amendments will not affect the City's ability to implement citywide regional parking ratios.

**Title 3: Water Quality, Flood Management and Fish and Wildlife Conservation**

These amendments will not directly impact water quality, flood management and fish and wildlife conservation. Providing THPRD with a small amount of additional funding may have a minimum positive impact in accomplishing the intent of this Title.

**Title 4: Retail in Employment and Industrial Areas**

These amendments will not increase or decrease retail in employment and industrial areas.

**Title 5: Neighbor Cities and Rural Reserves**

These amendments will not apply to any area that is not in the City or in the process of annexing to the City.



**Title 6: Central City, Regional Centers, Town Centers and Station Communities**

The proposed amendments will not detract from Metro's efforts to encourage development in and enhance the role of centers in the region.

**Title 7: Affordable Housing**

The additional SDC charges and the increase in property tax resulting from annexation to THPRD may have a negative impact on housing affordability. System Development Charges (SDC) levied by THPRD increase the cost of a new single-family or two-family house by \$2,981 and a multi-family unit by \$2,293. The city of Beaverton has taken its responsibility for accommodating affordable housing very seriously. The City has been actively seeking various methods to assist the construction of low income housing that include waiving or deferral of fees, donation of land, property tax exemptions or abatements, and financial assistance in the form of grants.

It should be noted that low income people are the ones least able to pay the fees charged by THPRD for those out-of-district residents who wish to use some of their facilities and services. Requiring annexation of residential development projects to the district will avoid this situation.

**Title 8: Compliance Procedures**

Title 8 requires that local jurisdictions amend their Comprehensive Plan and implementing ordinances to comply with the provisions of the functional plan. The City has submitted Compliance Reports demonstrating to Metro how we have complied with said provisions.

The proposed amendments are consistent with applicable provisions of the Urban Growth Functional Plan.

**Title 9: Performance Measures**

This Title refers to actions that Metro needs to take to evaluate the performance Functional Plan and the effects the Plan is having. These performance measures geared to Metro do not apply to the proposed amendments.

**Title 10: Functional Plan Definitions**

These definitions are important to interpreting the Functional Plan but are not applicable to the proposed amendments that would require development in Beaverton to annex to THPRD.

**Title 11: Planning for New Urban Areas**

This Title sets out the procedures for addressing the planning process for land brought inside the Urban Growth Boundary. If adopted, the proposed amendments would apply to property brought inside the UGB but only in the same way it would

apply to all other lands within the City. This Title is not applicable to the current process.

**Title 12: Protection of Residential Neighborhoods**

Title 12 states that “The purpose of Title 12 is to help implement the policy of the Regional Framework Plan to protect existing residential neighborhoods from air and water pollution, noise and crime and to provide adequate levels of public services.” These amendments will work towards providing parks and recreational facilities available to all residents of Beaverton.

**Findings:** Criterion 1.3.1.2, compliance with the Regional Urban Growth Goals and Objectives and the UGMFP has been met for these proposed amendments.

***1.3.1.3 The proposed amendment is consistent and compatible with the Comprehensive Plan and other applicable local plans.***

The proposed amendments are to clarify that THPRD is the primary parks and recreation facilities and services provider to residents of Beaverton. These amendments also call for amending the Development Code to require any property that applies for a Conditional Use, Design Review or Land Division in the City of Beaverton to annex to THPRD, if the property is not already in the District. These amendments further the intent of Goal 5.8.1 which states: “Cooperate with THPRD in implementation of its 20-Year Comprehensive Master Plan and Trails Master Plan in order to ensure adequate parks and recreation facilities and programs for current and future City residents.” Goal 1, Objective 1A of THPRD’s Master Plan calls for them to plan for the area they expect to serve in 2015. By requiring new development in the City to annex to THPRD helps them to plan for those areas. Goal 5.8.1 Policy b) states: “The City shall encourage THPRD to provide parks and recreation facilities throughout the City in locations that are easily accessible to those they are intended to serve.” Requiring new development to annex to THPRD is the best way for the City to encourage THPRD to provide facilities for these areas. In addition, Goal 9.2.3.1 calls for the City “To support a high quality of life for all of Beaverton’s citizens.” and Policy a) under this Goal calls for the City “To require a high quality of new development within the City to create an attractive environment.” Staff believes a high quality of life and a high quality of new development requires a high quality of park and recreation services. Staff is unaware of any provisions in the Comprehensive Plan that would be inconsistent or incompatible with the proposed amendments. These amendments, if adopted, will be consistent and compatible with the remainder of the Comprehensive Plan and the Tualatin Hills Park and Recreation District 20-Year Comprehensive Master Plan.

**Finding:** Criterion 1.3.1.3, consistency and compatibility with the Comprehensive Plan and other applicable local plans, is met for the proposed amendments.

**1.3.1.4      *Potential effects of the proposed amendment have been evaluated and will not be detrimental to quality of life, including the economy, environment, public health, safety or welfare.***

These amendments will require every property that is subject to a Conditional Use, Design Review or Land Division to annex to THPRD. Staff has evaluated the potential effects of the proposed amendments in the above analysis addressing the Statewide Planning Goals, the Metro Urban Growth Management Functional Plan and relevant goals and policies from the City Comprehensive Plan. Although there may be very limited impacts on housing affordability, staff has determined there will not be any significant negative impacts on quality of life.

Finding:      This proposal will not be detrimental to the quality of life, including the economy, environment, public health, safety or welfare. Thus, criterion 1.3.1.4 has been met for the proposed amendments.

**1.3.1.5      *The benefits of the proposed amendment will offset potential adverse impacts on surrounding areas, public facilities and services.***

Requiring participation in THPRD by everyone in the City will reduce negative impacts on park and recreation facilities. Currently residents of the City can use THPRD facilities. If residents choose to participate in THPRD's programs they can pay an out-of-district fee, but this does not include the cost of buying or constructing these facilities. The payment of the System Development Charges by all residents will help pay for the acquisition and construction of these facilities and offset adverse impacts from allowing residents not to participate in bearing these costs.

Finding:      Criterion 1.3.1.5 regarding benefits of the proposal offsetting potential adverse impacts is met for the proposed amendments.

**1.3.1.6      *There is a demonstrated public need, which will be satisfied by the amendment as compared with other properties with the same designation as the proposed amendment.***

Virtually all properties in the City are currently in THPRD and these amendments are simply attempting to make all properties in the City equal.

Finding:      Public need, criterion 1.3.1.6, is met with respect to the proposed amendments.

## CONCLUSION

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Staff concludes that the proposed Comprehensive Plan Amendment meets the burden of proof regarding Comprehensive Plan amendment criteria 1.3.1.1 through 1.3.1.6.

### APPLICATION PROCESSING

#### **Processing:**

City staff proposes a legislative Comprehensive Plan text amendment requiring a public hearing before the Planning Commission. Notice was given in accordance with Section 1.3 of the Comprehensive Plan.

The Commission, after the public hearing, shall approve, approve with modification, continue, or reject the amendment proposals.

#### **Appeals:**

Appeal of the Commission decision regarding the proposed amendments is to the City Council. The procedure for filing such an appeal and the manner of the hearing is governed by the provisions found within Section 1.3 of the Comprehensive Plan. The appeal request must be made in writing and delivered to the city within 10 calendar days from the date of the final order memorializing the Commission's decision. In addition, there is a non-refundable \$1,276.00 fee for each application being appealed, which must accompany the request for hearing.

Appeals of the City Council decision regarding this proposal shall be made to the Land Use Board of Appeals (LUBA). The procedure for filing such an appeal and the manner of the hearing shall be governed by ORS 197.620 and ORS 197.845.

#### **120 Day Requirement:**

Legislative amendments to the Comprehensive Plan are not subject to the 120 rule (Oregon Revised Statute 227.178).

#### **Public Notice:**

1. The required notice was sent to the Department Land Conservation and Development was sent more 45 days prior to the public hearing.
2. Notice was sent to the Neighborhood Office, the Chair of Committee for Citizen Involvement (CCI) and the Sexton Mountain and Neighbors Southwest Neighborhood Association Committees (NAC).
3. Legal notice was published in the Beaverton Valley Times on December 15, 2005.
4. All owners of property in the City of Beaverton whose property is not in Tualatin Hills Park and Recreation District will be sent notice.
5. Notice will be posted in Beaverton City Hall, the Beaverton Library and the Beaverton Post Office.

6. The file can be viewed at the Community Development Department and copies can be obtained at cost.
7. The staff report and notices will be posted on the City's public web site.
8. All notices will be provided at least thirty days before the hearing.

## **RECOMMENDATION**

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Staff recommends the Planning Commission:

- Approve CPA 2005-0008 amending the Comprehensive Plan Section 5.8 to make it clearly set forth that Tualatin Hills Park and Recreation district is the primary parks and recreation facilities and services provider for the residents of the City of Beaverton. Staff recommends approval based on the information contained in this report.

Attachment:            Proposed Amendments to the Comprehensive Plan

Proposed additions are shown in ***bold and italicized type*** and deletions are ~~struck through~~.

## **5.8 PARKS AND RECREATION**

Parks and recreation facilities are basic and essential for the health and welfare of the community. The City coordinates the land use aspects of locating these facilities but does not predetermine sites. Location and improvement decisions for these types of facilities are the responsibility of the Tualatin Hills Park and Recreation District (THPRD), ***which is the parks and recreation provider for the City of Beaverton.***

As Beaverton and the Metro area become more densely developed, the number, location, size and quality of parks and recreation facilities have become increasingly more important. The demand for these facilities has been brought about in part by a higher standard of living; more leisure time resulting from such things as shorter work weeks, earlier retirement, and increasing life span; higher densities of development and a continuing emphasis on health and exercise. The by-products of urbanization in terms of congestion, air pollution and noise have also created a greater awareness of the need for open space in the urban environment. An adequate park and recreation system contributes to the physical and mental health of the community and can be a source of community pride.

As features in the urban landscape, parks improve the character of neighborhoods and tend to stabilize ***and improve*** property values. Also, many businesses and industries seek locations with a high level of environmental quality as a means of increasing their ability to attract and retain a stable and productive work force. ***THPRD facilities are available to residents of the district, to employees who work in the district and to others by paying an out of district fee.*** With improved transportation systems giving greater flexibility for business and industrial site selection, a well-developed park and recreation system can be an important factor in attracting such developments to the community.

THPRD is ***a special service district*** ~~independent from the City~~ with its own elected five-member Board of Directors and taxing authority. THPRD was established in 1955. THPRD's boundary includes ***almost all of the land currently within Beaverton's City limits and*** most of Beaverton's ~~assumed~~ Urban Services Area. THPRD, ~~for the most part,~~ has developed ~~its own~~ ***an*** acquisition and development plan pursuant to the adopted Tualatin Hills Park & Recreation District 20-Year Comprehensive and Trails Master Plans, which are adopted here by reference. In addition to donations and outright purchases, the THPRD works with the City and Washington County through the land development process to obtain sites by dedication.

The THPRD's plan recognizes different types of park and recreation facilities including regional, neighborhood, community and specialty parks, school parks, recreational/aquatic center, multi-use trail system plan, off-street trail corridors and natural areas along streams. These descriptive park designations relate to the function or

character of the parks shown on THPRD's 20-Year Comprehensive Park & Recreation and Trails Master Plans. As the area grows, opportunities will occur in addition to those shown on the plan. Each should be evaluated in terms of conformance with this plan's goals and policies and those of the THPRD 20-Year Comprehensive Park & Recreation and Trails Master Plans.

*The City has declared that THPRD is the park and recreation provider for the City. Almost all of the City's current land area is in the district. Statewide Planning Goal 11: Public Facilities and Services requires cities and counties: "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." This requirement for urban areas includes recreation facilities and services. Beaverton has complied with this requirement by cooperating and coordinating with THPRD and by adopting their Plans into this Comprehensive Plan by reference. The City does provide some park and recreation facilities but it has no intention of being the primary provider of these facilities or services. Most of Beaverton's unincorporated Urban Service Area is in THPRD. Some of Beaverton's Urban Services Area is not in THPRD and since the City does not intend to be the primary parks and recreation provider to those areas they need to annex to the THPRD, if they develop in the City. To comply with Goal 11 the City will require the owners of property that is proposed for development or redevelopment but not in THPRD, to annex to the District and pay THPRD System Development Charges unless it can be demonstrated the development will provide park land, recreation facilities and services at a level that is similar to that provided by THPRD.*

The Portland General Electric (PGE)/Bonneville Power Administration (BPA) transmission lines provide opportunities for open space and trail corridors in the community. These rights-of-way will not be converted to intensive urban land uses in the foreseeable future.

**5.8.1 Goal: Cooperate with THPRD in implementation of its 20-Year Comprehensive Master Plan and Trails Master Plan in order to ensure adequate parks and recreation facilities and programs for current and future City residents.**

**POLICIES:**

- a) The City shall support and encourage THPRD efforts to provide parks and recreation facilities that will accommodate growth while recognizing the limited supply of buildable land in the city for such facilities.
- b) The City shall encourage THPRD to provide parks and recreation facilities throughout the City in locations that are easily accessible to those they are intended to serve.

- c) The City shall support and encourage acquisition of park and recreation sites in advance of need so that the most appropriate sites are available for these vital public facilities.

***Action 1:** The City shall work with THPRD to further explore opportunities for mixing public park and recreation activities with revenue-generating public/private partnerships such as restaurants, recreation and aquatic centers, sports complexes, or other concession activities, in order to help finance recreation programming, park acquisition, and maintenance.*

- d) The City shall notify THPRD of development proposals that may potentially impact a present or future park site to allow the district the opportunity to comment, purchase or request dedications.
- e) A number of financial incentives exist to encourage private property owners to donate, dedicate, or provide easements for resource preservation, park, trail or open space use. The City shall work cooperatively with property owners and THPRD to maximize the use of these tools for the benefit of the community.
- f) To offset increased densities and to meet the needs of the population, the City and THPRD should work together to provide urban scale public spaces in regional centers, town centers, station communities and main street areas within the city.
- g) The planning, acquisition and development of multi-use paths should be consistent with this Plan's Transportation Element and THPRD's Trail Master Plan.
- h) The City shall encourage park acquisition and appropriate development in areas designated as Significant Natural Resources, as defined by Volume III of this Comprehensive Plan.
- i) ***THPRD is the park and recreation provider for the City of Beaverton and the City desires that all property within its boundaries be within THPRD's boundaries.***

***Action 1:** Amend the Development Code to require owners of properties applying for a conditional use, design review or land division to annex to THPRD and to pay THPRD's System Development Charges.*





# MEMORANDUM

City of Beaverton

Community Development Department

*"make it happen"*

**To:** Planning Commission  
**From:** Alan Whitworth *Alan*  
**Date:** February 14, 2006  
**Subject:** CPA 2005-0008 and TA 2005-0009

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The Planning Commission heard CPA 2005-0008 and TA 2005-0009 on January 25, 2006. The proposal was to require properties that apply for a Conditional Use, Design Review and/or Land Division to annex to the Tualatin Hills Park and Recreation District if the property was not already in the District. The Planning Commission suggested changes to two of the four sections proposed for amendment and continued the hearing until February 22, 2006. Staff has incorporated the suggested changes in the attached amendments. These changes are in 40.93.15.1.C.3 and 60.33.10.

Commissioner Kroger suggested changes to 40.93.15.1.C.3. In the first sentence, she recommended replacing "...at an acreage to population ratio..." with "...at cost, quality and service levels...". In the third sentence she recommended replacing "...a cost, and quality level..." with "...cost, quality and service levels...". Commissioner Johansen suggested changes to 60.33.10. He recommended changing the first sentence from "Except as provided in Section 60.33.15, the approval of conditional use, design review or land division for any property located in the City of Beaverton and not within THPRD's boundaries shall be conditional on the submittal of a legally sufficient petition to annex the property to THPRD and the delay of issuance building permits until the annexation is effective." to "Except as provided in Section 60.33.15, the approval of a conditional use, design review or land division for any property located in the City of Beaverton, and not within THPRD's boundaries, shall be conditional on the submittal of a legally sufficient petition to annex the property to THPRD; issuance of building permits shall be delayed until the annexation is effective."

Attachments

Proposed additions are shown in ***bold and italicized type*** and deletions are ~~struck through~~.

## **5.8 PARKS AND RECREATION**

Parks and recreation facilities are basic and essential for the health and welfare of the community. The City coordinates the land use aspects of locating these facilities but does not predetermine sites. Location and improvement decisions for these types of facilities are the responsibility of the Tualatin Hills Park and Recreation District (THPRD), ***which is the parks and recreation provider for the City of Beaverton.***

As Beaverton and the Metro area become more densely developed, the number, location, size and quality of parks and recreation facilities have become increasingly more important. The demand for these facilities has been brought about in part by a higher standard of living; more leisure time resulting from such things as shorter work weeks, earlier retirement, and increasing life span; higher densities of development and a continuing emphasis on health and exercise. The by-products of urbanization in terms of congestion, air pollution and noise have also created a greater awareness of the need for open space in the urban environment. An adequate park and recreation system contributes to the physical and mental health of the community and can be a source of community pride.

As features in the urban landscape, parks improve the character of neighborhoods and tend to stabilize ***and improve*** property values. Also, many businesses and industries seek locations with a high level of environmental quality as a means of increasing their ability to attract and retain a stable and productive work force. ***THPRD facilities are available to residents of the district, to employees who work in the district and to others by paying an out of district fee.*** With improved transportation systems giving greater flexibility for business and industrial site selection, a well-developed park and recreation system can be an important factor in attracting such developments to the community.

THPRD is ***a special service district*** ~~independent from the City~~ with its own elected five-member Board of Directors and taxing authority. THPRD was established in 1955. THPRD's boundary includes ***almost all of the land currently within Beaverton's City limits and*** most of Beaverton's ~~assumed~~ Urban Services Area. THPRD, ~~for the most part,~~ has developed ~~its own~~ ***an*** acquisition and development plan pursuant to the adopted Tualatin Hills Park & Recreation District 20-Year Comprehensive and Trails Master Plans, which are adopted here by reference. In addition to donations and outright purchases, the THPRD works with the City and Washington County through the land development process to obtain sites by dedication.

The THPRD's plan recognizes different types of park and recreation facilities including regional, neighborhood, community and specialty parks, school parks, recreational/aquatic center, multi-use trail system plan, off-street trail corridors and natural areas along streams. These descriptive park designations relate to the function or

character of the parks shown on THPRD's 20-Year Comprehensive Park & Recreation and Trails Master Plans. As the area grows, opportunities will occur in addition to those shown on the plan. Each should be evaluated in terms of conformance with this plan's goals and policies and those of the THPRD 20-Year Comprehensive Park & Recreation and Trails Master Plans.

*The City has declared that THPRD is the park and recreation provider for the City. Almost all of the City's current land area is in the district. Statewide Planning Goal 11: Public Facilities and Services requires cities and counties: "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." This requirement for urban areas includes recreation facilities and services. Beaverton has complied with this requirement by cooperating and coordinating with THPRD and by adopting their Plans into this Comprehensive Plan by reference. The City does provide some park and recreation facilities but it has no intention of being the primary provider of these facilities or services. Most of Beaverton's unincorporated Urban Service Area is in THPRD. Some of Beaverton's Urban Services Area is not in THPRD and since the City does not intend to be the primary parks and recreation provider to those areas they need to annex to the THPRD, if they develop in the City. To comply with Goal 11 the City will require the owners of property that is proposed for development or redevelopment but not in THPRD, to annex to the District and pay THPRD System Development Charges unless it can be demonstrated the development will provide park land, recreation facilities and services at a level that is similar to that provided by THPRD.*

The Portland General Electric (PGE)/Bonneville Power Administration (BPA) transmission lines provide opportunities for open space and trail corridors in the community. These rights-of-way will not be converted to intensive urban land uses in the foreseeable future.

**5.8.1 Goal: Cooperate with THPRD in implementation of its 20-Year Comprehensive Master Plan and Trails Master Plan in order to ensure adequate parks and recreation facilities and programs for current and future City residents.**

**POLICIES:**

- a) The City shall support and encourage THPRD efforts to provide parks and recreation facilities that will accommodate growth while recognizing the limited supply of buildable land in the city for such facilities.
- b) The City shall encourage THPRD to provide parks and recreation facilities throughout the City in locations that are easily accessible to those they are intended to serve.

- c) The City shall support and encourage acquisition of park and recreation sites in advance of need so that the most appropriate sites are available for these vital public facilities.

***Action 1: The City shall work with THPRD to further explore opportunities for mixing public park and recreation activities with revenue-generating public/private partnerships such as restaurants, recreation and aquatic centers, sports complexes, or other concession activities, in order to help finance recreation programming, park acquisition, and maintenance.***

- d) The City shall notify THPRD of development proposals that may potentially impact a present or future park site to allow the district the opportunity to comment, purchase or request dedications.
- e) A number of financial incentives exist to encourage private property owners to donate, dedicate, or provide easements for resource preservation, park, trail or open space use. The City shall work cooperatively with property owners and THPRD to maximize the use of these tools for the benefit of the community.
- f) To offset increased densities and to meet the needs of the population, the City and THPRD should work together to provide urban scale public spaces in regional centers, town centers, station communities and main street areas within the city.
- g) The planning, acquisition and development of multi-use paths should be consistent with this Plan's Transportation Element and THPRD's Trail Master Plan.
- h) The City shall encourage park acquisition and appropriate development in areas designated as Significant Natural Resources, as defined by Volume III of this Comprehensive Plan.
- i) ***THPRD is the park and recreation provider for the City of Beaverton and the City desires that all property within its boundaries be within THPRD's boundaries.***

***Action 1: Amend the Development Code to require owners of properties applying for a conditional use, design review or land division to annex to THPRD and to pay THPRD's System Development Charges.***

Additions are ***bolded and italicized*** and deletions are ~~struck through~~.

**40.93. TUALATIN HILLS PARK AND RECREATION DISTRICT ANNEXATION WAIVER**

**40.93.05. Purpose.**

*The purpose of this section is to provide for the application of a Tualatin Hills Park and Recreation annexation waiver, which allows a waiver from the requirement to annex property into the Tualatin Hills Park and Recreation District as a condition of approval of any development as specified in Section 60.33 of this Code.*

**40.93.10. Applicability**

*A THPRD annexation waiver may only be requested by the property owner(s) for any development proposed outside of THPRD boundaries who wish to provide their own park and recreation facilities and services rather than annex the site to THPRD.*

**40.93.15. Application.**

*There is a single THPRD annexation waiver application which is subject to the following requirements.*

**1. THPRD Annexation Waiver.**

**A. Threshold.** *An application for a THPRD annexation waiver shall be required when the following threshold applies:*

**1.** *The property proposed for development is not in the Tualatin Hills Park and Recreation District (THPRD) and the applicant wishes to provide park and recreation facilities and services for the development rather than annex the site to THPRD.*

**B. Procedure Type.** *The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for a THPRD annexation waiver.*

- C. **Approval Criteria.** *In order to approve a THPRD annexation waiver application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:*
1. *The proposal satisfies the threshold requirements for a THPRD annexation waiver application.*
  2. *All City application fees related to the application under consideration by the decision making authority have been submitted.*
  3. *Detailed plans and documentation demonstrating compliance with Section 60.33.15. Park facilities shall be deemed similar if provided for the projected number of future residents and/or employees of the proposed development at cost, quality and services levels equal to or greater than the minimum set for the core park system in the THPRD Comprehensive Master Plan. Improvements within provided park facilities shall be deemed similar if at least two of the following are provided: a tennis court, a basketball court, a swimming pool, or a children's play structure; and at least one of the following is also provided: a baseball/softball field, a soccer field, or a community/recreation center. Recreation services shall be deemed similar if provided for future residents or employees of the proposed development at cost, quality and service levels equal to or greater than the minimum set for such services in the THPRD Comprehensive Master Plan.*
  4. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

- D. Submission Requirements. *An application for a THPRD annexation waiver shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.*
- E. Conditions of Approval. *The decision making authority may impose conditions on the approval of a THPRD annexation waiver application to ensure compliance with the approval criteria.*
- F. Appeal of a Decision. *Refer to Section 50.70.*
- G. Expiration of a Decision. *Refer to Section 50.90.*

Additions are ***bolded and italicized*** and there are no deletions

**50.90.            Expiration of a Decision**

1.    Except as otherwise specifically provided in a specific decision or in this Code, a final decision made pursuant to this Chapter shall expire automatically on the following schedule unless the approval is enacted either through construction or establishment of use within the specified time period.
  - A.    Five (5) years from the effective date of decision: Final Planned Unit Development (40.15.15.6) where phasing of the development is proposed.
  - B.    Two (2) years from the effective date of decision:
    - Accessory Dwelling Unit (40.05.15.1)
    - Administrative Conditional Use (40.15.15.3)
    - Alteration of a Landmark (40.35.15.1)
    - Conditional Use (40.15.15.4)
    - Demolition of a Landmark (40.35.15.3)
    - Design Review Two (40.20.15.2)
    - Design Review Three (40.20.15.3)
    - Emergency Demolition of a Landmark (40.35.15.2)
    - Expedited Land Division (40.45.15.7)
    - Final Land Division (40.45.15.6)
    - Final Planned Unit Development (40.15.15.6) when there is no phasing to the development
    - Flexible Setback for Individual Lot With Endorsement (40.30.15.1)
    - Flexible Setback for Individual Lot Without Endorsement (40.30.15.2)
    - Flexible Setback for a Proposed Residential Land Division (40.30.15.3)
    - Flexible Setback for a Proposed Annexation (40.30.15.4)
    - Lot Line Adjustment (40.45.15.1)
    - Major Adjustment (40.10.15.3)
    - Major Adjustment - All Regional Center zones and South Tektronix Station Community Major Pedestrian Routes (40.10.15.4)
    - Major Modification of a Conditional Use (40.15.15.2)
    - Minor Adjustment (40.10.15.1)



Minor Adjustment - All Regional Center zones and South  
 Tektronix Station Community Major Pedestrian  
 Routes (40.10.15.2)  
 Minor Modification of a Conditional Use (40.15.15.1)  
 New Construction in a Historic District (40.35.15.4)  
 Preliminary Fee Ownership Partition (40.45.15.4)  
 Preliminary Fee Ownership Subdivision (40.45.15.5)  
 Preliminary Partition (40.45.15.2)  
 Preliminary Planned Unit Development (40.15.15.5)  
 Preliminary Subdivision (40.45.15.3)  
 Public Transportation Facility (40.57.15.1)  
 Tree Plan One (40.90.15.1)  
 Tree Plan Two (40.90.15.2)  
 Tree Plan Three (40.90.15.3)  
**THPRD Annexation Waiver (40.93.15)**  
 Variance (40.95.15.1)  
 Wireless Facility One (40.96.15.1)  
 Wireless Facility Two (40.96.15.2)  
 Wireless Facility Three (40.96.15.3)  
 Zero Side or Zero Rear Yard Setback for a Proposed  
 Residential Land Division (40.30.15.5)  
 Zero Side Yard Setback for a Proposed Non-Residential  
 Land Division (40.30.15.6)

C. One (1) year from the effective date of the decision:

Design Review Compliance Letter (40.20.15.1)  
 Home Occupation One (Section 40.40.15.1)  
 Home Occupation Two (Section 40.40.15.2)  
 Loading Determination (Section 40.50.15.1)  
 Parking Requirement Determination (Section 40.55.15.1)  
 Shared Parking (Section 40.55.15.2)  
 Signs (Section 40.60.15.1)  
 Solar Access (Section 40.65.15.1)  
 Use of Excess Parking (Section 40.55.15.3)

D. No expiration date:

Director's Interpretation (40.25.15.1)  
 Discretionary Annexation Related Zoning Map  
 Amendment (40.97.15.4).  
 Legislative Zoning Map Amendment (40.97.15.2)  
 Non-Discretionary Annexation Related Zoning Map  
 Amendment (40.97.15.3)  
 Quasi-Judicial Zoning Map Amendment (40.97.15.1)

Street Vacation (40.75.15.1)  
Text Amendment (40.85.15.1)  
Tree Plan Four (40.90.15.4)

[ORD 4265; September 2003] [ORD 4332; November 2004]

2. The effective date of the decision for Type 1, Type 2, or Type 3 applications shall be the date that the signed land use order is dated and mailed, unless appealed. If a Type 1, Type 2, or Type 3 application is appealed, the effective date of the decision shall be the date of the appellate decision making authority's signed land use order is dated and mailed. The effective date of decision for a Type 4 application is thirty (30) calendar days after the Mayor signs the ordinance, unless an emergency is declared in which case the ordinance is effective immediately upon signature of the Mayor.
3. A decision shall expire according to Section 50.90.1 unless one of the following occurs prior to the date of expiration:
  - A. An application for an extension is filed pursuant to Section 50.93; or
  - B. The development authorized by the decision has commenced as defined herein.
    1. The use of the subject property has changed as allowed by the approval;
    2. In the case of development requiring construction, a construction permit has been issued and substantial construction pursuant thereto has taken place; or
    3. In the case of development authorized to be done in phases, each phase must be commenced within the time specified in the approval, or within two (2) years of completion of the prior phase if no time is specified.
    4. The 45 day to five (5) year time begins from the effective date of the decision. Appeal of a decision to LUBA does not extend the time.

This Section is entirely new and is shown ***bolded and italicized***.

**60.33.      *PARK AND RECREATION FACILITIES AND SERVICES PROVISION***

**60.33.05.      *Purpose. The City of Beaverton has declared Tualatin Hills Parks and Recreation District (THPRD) as the parks and recreation provider for the City (Policy 5.8.1.h. of the Comprehensive Plan). Since THPRD is the parks and recreation provider for the City, annexation to the District will generally be required by the City for all new development or redevelopment of properties that are outside THPRD boundaries. The provisions of this Section are designed to:***

- 1.      Ensure that all residents of the City of Beaverton have access to high quality recreational facilities and services; and***
- 2.      Require all new development to pay its fair share for the park and recreational system that serves Beaverton.***

**60.33.10.      *Annexation to THPRD.***

*Except as provided in Section 60.33.15, the approval of a conditional use, design review or land division for any property located in the City of Beaverton, and not within THPRD's boundaries, shall be conditional on the submittal of a legally sufficient petition to annex the property to THPRD; issuance of building permits shall be delayed until the annexation is effective. Delay of issuance of building permits until after the annexation is effective may be waived as a condition of approval by the review authority if the applicant agrees in writing to pay the appropriate THPRD Systems Development Charge for all building permits issued prior to the effective date of annexation.*

**60.33.15.      *Waiver of Requirement.***

*Any proposed development that can document to the City's satisfaction that it will provide park land, recreation facilities and services at a level similar to that provided by THPRD may have the requirements of Section 60.33.10 waived by the City. See Section 40.93.15.*

## AGENDA BILL

Beaverton City Council  
Beaverton, Oregon

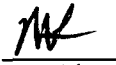

**SUBJECT:** An Ordinance Amending Ordinance 2050, The Development Code, to Require Properties Applying for Certain Land Use Approvals To Annex to Tualatin Hills Park and Recreation District (THPRD) and Providing a Waiver Provision, TA 2005-0009

**FOR AGENDA OF:** 4/10/06 **BILL NO:** 06059

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** CDD 

**DATE SUBMITTED:** 3/15/06

**CLEARANCES:** City Attorney   
Planning Services 

**PROCEEDING:** First Reading

- EXHIBITS:**
1. Ordinance
  2. Planning Commission Order 1843
  3. Planning Commission Minutes
  4. Staff Report Dated 1/10/06
  5. Memorandum Dated 2/14/06

### **BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$0	BUDGETED \$0	REQUIRED \$0

### **HISTORICAL PERSPECTIVE:**

Tualatin Hills Park and Recreation District (THPRD) was established in 1955 and its boundaries now include most of the City of Beaverton and its assumed Urban Services Area. Over the years THPRD has expanded and improved its facilities and services to a level which contributes significantly to the quality of life in the community. Lack of availability of such facilities and services to occupants of new development would detract from their quality of life.

### **INFORMATION FOR CONSIDERATION:**

The attached Ordinance would amend Development Code Section 50.90 and add Sections 40.93 and 60.33. Section 60.33 would require any property in the City (that is not already in THPRD) that is the subject of a Conditional Use, Design Review and/or Land Division to annex to THPRD unless they qualify for a waiver. Section 40.93 establishes the requirements for a waiver of the annexation requirement and sets forth the procedures to be followed to obtain a waiver. The amendment to Section 50.90 merely adds the waiver approval to a list that provides a two-year expiration date of the approval.

### **RECOMMENDED ACTION:**

First Reading

**ORDINANCE NO. 4388**

AN ORDINANCE AMENDING ORDINANCE NO. 2050, THE DEVELOPMENT CODE, TO ADD SECTIONS 40.93 AND 60.33 AND AMEND SECTION 50.90 TO REQUIRE ANNEXATION TO THE TUALATIN PARK AND RECREATION DISTRICT FOR PROPERTIES APPLYING FOR CERTAIN PERMITS AND INCLUDING A WAIVER PROVISION; TA 2005-0009

- WHEREAS,** the Tualatin Hills Park and Recreation District (THPRD) is the primary parks and recreation provider for the citizens of the City of Beaverton and the City chooses to require properties that apply for a Conditional Use, Design Review, and/or Land Division to annex to THPRD in order to insure that the residents of the City have adequate park and recreation services and to comply with Statewide Planning goal 11; and
- WHEREAS,** pursuant to Section 50.50.1 of the Development Code, the Beaverton Planning Services Division on January 10, 2006, published a written staff report and recommendation a minimum of seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on January 10, 2006; and
- WHEREAS,** on January 25, 2006 and February 22, 2006, the Planning Commission conducted a public hearing for TA 2005-0009; and
- WHEREAS,** at the conclusion of the February 22, 2006 hearing, the Planning Commission voted to recommend to the Beaverton City Council adoption of the proposed amendment to the Development Code as summarized in Planning Commission Order No. 1843; and
- WHEREAS,** no written appeal pursuant to Section 50.75 of the Development Code was filed by persons of record for TA 2005-0009 following the issuance of Planning Commission Order No. 1843; and
- WHEREAS,** the City Council adopts as to criteria, facts and findings described in Planning Commission Order No. 1843 dated March 14, 2006 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now, therefore,

**THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:**

- Section 1.** Ordinance No. 2050, the Development Code, as amended, is amended to read as set out in Exhibit "A" of this Ordinance attached hereto and incorporated herein by this reference.
- Section 2.** All Development Code provisions adopted prior to this Ordinance which are not expressly amended or replaced herein shall remain in full force and effect.

**Section 3.** Severance Clause. The invalidity or lack of enforceability of any terms or provisions of this Ordinance or any appendix or part thereof shall not impair or otherwise affect in any manner the validity, enforceability or effect of the remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to affect the evident intent and purposes taken as a whole insofar as reasonably possible under all of the relevant circumstances and facts.

First reading this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Passed by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

Additions are ***bolded and italicized*** and deletions are ~~struck through~~.

**40.93. TUALATIN HILLS PARK AND RECREATION DISTRICT  
ANNEXATION WAIVER**

**40.93.05. Purpose.**

*The purpose of this section is to provide for the application of a Tualatin Hills Park and Recreation annexation waiver, which allows a waiver from the requirement to annex property into the Tualatin Hills Park and Recreation District as a condition of approval of any development as specified in Section 60.33 of this Code.*

**40.93.10. Applicability**

*A THPRD annexation waiver may only be requested by the property owner(s) for any development proposed outside of THPRD boundaries who wish to provide their own park and recreation facilities and services rather than annex the site to THPRD.*

**40.93.15. Application.**

*There is a single THPRD annexation waiver application which is subject to the following requirements.*

**1. THPRD Annexation Waiver.**

**A. Threshold.** *An application for a THPRD annexation waiver shall be required when the following threshold applies:*

**1.** *The property proposed for development is not in the Tualatin Hills Park and Recreation District (THPRD) and the applicant wishes to provide park and recreation facilities and services for the development rather than annex the site to THPRD.*

**B. Procedure Type.** *The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for a THPRD annexation waiver.*

C. **Approval Criteria.** *In order to approve a THPRD annexation waiver application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:*

- 1. The proposal satisfies the threshold requirements for a THPRD annexation waiver application.*
- 2. All City application fees related to the application under consideration by the decision making authority have been submitted.*
- 3. Detailed plans and documentation demonstrating compliance with Section 60.33.15. Park facilities shall be deemed similar if provided for the projected number of future residents and/or employees of the proposed development at cost, quality and services levels equal to or greater than the minimum set for the core park system in the THPRD Comprehensive Master Plan. Improvements within provided park facilities shall be deemed similar if at least two of the following are provided: a tennis court, a basketball court, a swimming pool, or a children's play structure; and at least one of the following is also provided: a baseball/softball field, a soccer field, or a community/recreation center. Recreation services shall be deemed similar if provided for future residents or employees of the proposed development at cost, quality and service levels equal to or greater than the minimum set for such services in the THPRD Comprehensive Master Plan.*
- 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*



- D. Submission Requirements. *An application for a THPRD annexation waiver shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.*
- E. Conditions of Approval. *The decision making authority may impose conditions on the approval of a THPRD annexation waiver application to ensure compliance with the approval criteria.*
- F. Appeal of a Decision. *Refer to Section 50.70.*
- G. Expiration of a Decision. *Refer to Section 50.90.*

Additions are ***bolded and italicized*** and there are no deletions

**50.90.            Expiration of a Decision**

1.    Except as otherwise specifically provided in a specific decision or in this Code, a final decision made pursuant to this Chapter shall expire automatically on the following schedule unless the approval is enacted either through construction or establishment of use within the specified time period.
  - A.    Five (5) years from the effective date of decision: Final Planned Unit Development (40.15.15.6) where phasing of the development is proposed.
  - B.    Two (2) years from the effective date of decision:
    - Accessory Dwelling Unit (40.05.15.1)
    - Administrative Conditional Use (40.15.15.3)
    - Alteration of a Landmark (40.35.15.1)
    - Conditional Use (40.15.15.4)
    - Demolition of a Landmark (40.35.15.3)
    - Design Review Two (40.20.15.2)
    - Design Review Three (40.20.15.3)
    - Emergency Demolition of a Landmark (40.35.15.2)
    - Expedited Land Division (40.45.15.7)
    - Final Land Division (40.45.15.6)
    - Final Planned Unit Development (40.15.15.6) when there is no phasing to the development
    - Flexible Setback for Individual Lot With Endorsement (40.30.15.1)
    - Flexible Setback for Individual Lot Without Endorsement (40.30.15.2)
    - Flexible Setback for a Proposed Residential Land Division (40.30.15.3)
    - Flexible Setback for a Proposed Annexation (40.30.15.4)
    - Lot Line Adjustment (40.45.15.1)
    - Major Adjustment (40.10.15.3)
    - Major Adjustment - All Regional Center zones and South Tektronix Station Community Major Pedestrian Routes (40.10.15.4)
    - Major Modification of a Conditional Use (40.15.15.2)
    - Minor Adjustment (40.10.15.1)

Minor Adjustment - All Regional Center zones and South  
Tektronix Station Community Major Pedestrian  
Routes (40.10.15.2)

Minor Modification of a Conditional Use (40.15.15.1)

New Construction in a Historic District (40.35.15.4)

Preliminary Fee Ownership Partition (40.45.15.4)

Preliminary Fee Ownership Subdivision (40.45.15.5)

Preliminary Partition (40.45.15.2)

Preliminary Planned Unit Development (40.15.15.5)

Preliminary Subdivision (40.45.15.3)

Public Transportation Facility (40.57.15.1)

Tree Plan One (40.90.15.1)

Tree Plan Two (40.90.15.2)

Tree Plan Three (40.90.15.3)

***THPRD Annexation Waiver (40.93.15)***

Variance (40.95.15.1)

Wireless Facility One (40.96.15.1)

Wireless Facility Two (40.96.15.2)

Wireless Facility Three (40.96.15.3)

Zero Side or Zero Rear Yard Setback for a Proposed  
Residential Land Division (40.30.15.5)

Zero Side Yard Setback for a Proposed Non-Residential  
Land Division (40.30.15.6)

C. One (1) year from the effective date of the decision:

Design Review Compliance Letter (40.20.15.1)

Home Occupation One (Section 40.40.15.1)

Home Occupation Two (Section 40.40.15.2)

Loading Determination (Section 40.50.15.1)

Parking Requirement Determination (Section 40.55.15.1)

Shared Parking (Section 40.55.15.2)

Signs (Section 40.60.15.1)

Solar Access (Section 40.65.15.1)

Use of Excess Parking (Section 40.55.15.3)

D. No expiration date:

Director's Interpretation (40.25.15.1)

Discretionary Annexation Related Zoning Map  
Amendment (40.97.15.4).

Legislative Zoning Map Amendment (40.97.15.2)

Non-Discretionary Annexation Related Zoning Map  
Amendment (40.97.15.3)

Quasi-Judicial Zoning Map Amendment (40.97.15.1)

Street Vacation (40.75.15.1)  
Text Amendment (40.85.15.1)  
Tree Plan Four (40.90.15.4)

[ORD 4265; September 2003] [ORD 4332; November 2004]

2. The effective date of the decision for Type 1, Type 2, or Type 3 applications shall be the date that the signed land use order is dated and mailed, unless appealed. If a Type 1, Type 2, or Type 3 application is appealed, the effective date of the decision shall be the date of the appellate decision making authority's signed land use order is dated and mailed. The effective date of decision for a Type 4 application is thirty (30) calendar days after the Mayor signs the ordinance, unless an emergency is declared in which case the ordinance is effective immediately upon signature of the Mayor.
3. A decision shall expire according to Section 50.90.1 unless one of the following occurs prior to the date of expiration:
  - A. An application for an extension is filed pursuant to Section 50.93; or
  - B. The development authorized by the decision has commenced as defined herein.
    1. The use of the subject property has changed as allowed by the approval;
    2. In the case of development requiring construction, a construction permit has been issued and substantial construction pursuant thereto has taken place; or
    3. In the case of development authorized to be done in phases, each phase must be commenced within the time specified in the approval, or within two (2) years of completion of the prior phase if no time is specified.
    4. The 45 day to five (5) year time begins from the effective date of the decision. Appeal of a decision to LUBA does not extend the time.

This Section is entirely new and is shown ***bolded and italicized***.

**60.33.      *PARK AND RECREATION FACILITIES AND SERVICES PROVISION***

**60.33.05.      *Purpose. The City of Beaverton has declared Tualatin Hills Parks and Recreation District (THPRD) as the parks and recreation provider for the City (Policy 5.8.1.h. of the Comprehensive Plan). Since THPRD is the parks and recreation provider for the City, annexation to the District will generally be required by the City for all new development or redevelopment of properties that are outside THPRD boundaries. The provisions of this Section are designed to:***

- 1.      *Ensure that all residents of the City of Beaverton have access to high quality recreational facilities and services; and***
- 2.      *Require all new development to pay its fair share for the park and recreational system that serves Beaverton.***

**60.33.10.      *Annexation to THPRD.***

*Except as provided in Section 60.33.15, the approval of a conditional use, design review or land division for any property located in the City of Beaverton, and not within THPRD's boundaries, shall be conditional on the submittal of a legally sufficient petition to annex the property to THPRD; issuance of building permits shall be delayed until the annexation is effective. Delay of issuance of building permits until after the annexation is effective may be waived as a condition of approval by the review authority if the applicant agrees in writing to pay the appropriate THPRD Systems Development Charge for all building permits issued prior to the effective date of annexation.*

**60.33.15.      *Waiver of Requirement.***

*Any proposed development that can document to the City's satisfaction that it will provide park land, recreation facilities and services at a level similar to that provided by THPRD may have the requirements of Section 60.33.10 waived by the City. See Section 40.93.15.*

BEFORE THE PLANNING COMMISSION  
FOR THE CITY OF BEAVERTON, OREGON

IN THE MATTER OF TA 2005-0009, A	)	ORDER NO. 1843
	)	
REQUEST TO AMEND THE BEAVERTON	)	RECOMMENDING
	)	
DEVELOPMENT CODE SECTIONS	)	APPROVAL
	)	
40.93, 50.90, AND 60.33. CITY OF	)	
	)	
BEAVERTON, APPLICANT.	)	

The matter of TA 2005-0009 was initiated by the City of Beaverton, through the submittal of a Text Amendment application from the Beaverton Community Development Department.

Pursuant to the amendment procedures as described in Section 50.50 of Ordinance 2050, the Development Code, effective through Ordinance 4365, the Planning Commission conducted a public hearing on January 25, and February 22, 2006, and considered oral and written testimony and exhibits for a proposed amendment to the Beaverton Development Code.

TA 2005-0009 proposes to amend Development Code Sections 40.93, 50.90 and 60.33, to require properties that apply for a Conditional Use, Design Review and/or Land Division in the City of Beaverton to annex to Tualatin Hills Park and Recreation District, the parks and recreation provider for the City.

The Planning Commission adopts by reference the January 10, 2006, Staff Report and Staff's Supplemental Memorandum dated February 14, 2006, prepared for TA2005-0009 and finds it provides evidence and findings demonstrating the application satisfies all the Text Amendment approval criteria as stated under Section 40.85.15.1.C.1-7 of the Development Code, applicable to this request and therefore:

IT IS HEREBY ORDERED that pursuant to Section 50.50.1 of the Beaverton Development Code, the Planning Commission **RECOMMENDS APPROVAL** of TA 2005-0009 to the Beaverton City Council and adoption of the Development Code text amendment described herein.

CARRIED by the following vote:

AYES:	Pogue, Kroger, Bobadilla, Maks, Winter, and Johansen.
NAYS:	None
ABSTAIN:	None.
ABSENT:	Stephens.


Dated this 14<sup>th</sup> day of March, 2006.

To appeal the decision of the Planning Commission, as articulated in Land Use Order No. 1843, an appeal must be filed on an Appeal form provided by the Director at the City of Beaverton Recorder's Office by no later than 5:00 p.m. on Friday : March 24<sup>th</sup>, 2006.

PLANNING COMMISSION  
FOR BEAVERTON, OREGON:

ATTEST:

APPROVED:

  
\_\_\_\_\_  
ALAN WHITWORTH  
Senior Planner

  
\_\_\_\_\_  
ERIC JOHANSEN  
Chairman

  
\_\_\_\_\_  
HAL BERGSMA  
Planning Services Manager



## PLANNING COMMISSION MINUTES

## EXHIBIT 3

February 22, 2006

**CALL TO ORDER:**

Chairman Eric Johansen called the meeting to order at 6:30 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

**ROLL CALL:**

Present were Chairman Eric Johansen, Planning Commissioners Dan Maks, Shannon Pogue, Wendy Kroger, Melissa Bobadilla, and Scott Winter. Planning Commissioner Richard Stephens was excused.

Senior Planner John Osterberg, Associate Planner Tyler Ryerson, Assistant City Attorney Ted Naemura and Recording Secretary Sheila Martin represented staff.

The meeting was called to order by Chairman Johansen, who presented the format for the meeting.

**VISITORS:**

Chairman Johansen asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

**STAFF COMMUNICATION:**

Associate Planner Tyler Ryerson announced that WF2005-0008 VoiceStream Wireless Facility at Church of the Nazarene will be continued to a date certain of April 12, 2006.

**A. VOICESTREAM WIRELESS FACILITY AT CHURCH OF THE NAZARENE.**

*(Request for Continuance to April 12, 2006)*

1. WF2005-0008 – WIRELESS FACILITY TYPE 3

1 The applicant request Type 3 Wireless Facility approval to construct a  
2 new wireless communication facility. The communication facility will  
3 consist of an 80 foot-tall monopole and equipment building with  
4 associated landscaping and fencing. The facility is to be located on the  
5 Church of Nazarene property, north of the main church building and  
6 west of the parking lot. The applicant proposes to lease an area from  
7 the church approximately 1,200 square feet in size.

8  
9 Commissioner Pogue **MOVED** and Commissioner Kroger  
10 **SECONDED** a motion to continue WF2005-0008 VoiceStream  
11 Wireless Facility at Church of the Nazarene to a date certain of April  
12 12, 2006.

13  
14 Motion **CARRIED** unanimously:

15  
16 AYES: Pogue, Kroger, Bobadilla, Maks, Winter, and  
17 Johansen.

18 NAYS: None.

19 ABSTAIN: None.

20 ABSENT: Stephens.

21  
22 **OLD BUSINESS:**

23  
24 Chairman Johansen the Public Hearing and read the format for Public  
25 Hearings. There were no disqualifications of the Planning Commission  
26 members. No one in the audience challenged the right of any  
27 Commissioner to hear any of the agenda items, to participate in the  
28 hearing or requested that the hearing be postponed to a later date. He  
29 asked if there were any ex parte contact, conflict of interest or  
30 disqualifications in any of the hearings on the agenda. There was no  
31 response.

32  
33 **CONTINUANCES:**

34  
35 **A. COMPREHENSIVE PLAN AMENDMENT**

36 **B. REQUIRE ANNEXATION TO THPRD AND PROVIDE WAIVER**  
37 **PROVISIONS**

38 1. CPA2005-0008 – COMPREHENSIVE PLAN AMENDMENT

39 2. TA2005-0009 – TEXT AMENDMENT

40 *(Continued from January 25, 2006)*

41 This is a City initiated action to (1) amend the Comprehensive Plan  
42 (Section 5.8) to more clearly set forth that the Tualatin Hills Park and  
43 Recreation District (THPRD) is the primary parks and recreation  
44 provider for the City; and (2) amend the Development Code by (a)

1 adding Section 60.33 to require properties applying for a Conditional  
2 Use, Design Review or Land Division that are not in THPRD to annex  
3 to THPRD and pay their System Development Fees; and (b) adding  
4 Section 40.93 and amending Section 50.90 to allow for a waiver of this  
5 requirement for developments that provide facilities and services  
6 similar to those provided by THPRD.

7  
8 Senior Planner Alan Whitworth presented the supplemental staff  
9 report on the proposed applications, including the recommended  
10 changes as requested by the Planning Commission at the January 25,  
11 2006, hearing. Concluding, he recommended approval of the proposed  
12 applications, and offered to respond to questions.

13  
14 Observing that the document refers to the "decision making authority",  
15 Commissioner Maks requested clarification as to which body.

16  
17 Mr. Whitworth noted that the "decision making authority" refers to the  
18 Planning Commission, Board of Design Review and/or Planning  
19 Director.

20  
21 Commissioner Maks questioned how this would involve the Board of  
22 Design Review (BDR).

23  
24 Mr. Whitworth noted that the involvement of BDR would strictly be  
25 triggered by a Design Review application.

26  
27 **PUBLIC TESTIMONY**

28  
29 No member of the public testified with regard to this proposal.

30  
31 The public portion of the Public Hearing was closed.

32  
33 Commissioner's Kroger, Pogue, Winter, Bobadilla, Maks, and  
34 Chairman Johansen all expressed their support of this proposal.

35  
36 The public portion of the Public Hearing was closed.

37  
38 Commissioner Pogue **MOVED** and Commissioner Kroger  
39 **SECONDED** a motion to **APPROVE** CPA2005-0008 Comprehensive  
40 Plan Amendment based upon the testimony, reports and exhibits, and  
41 new evidence presented during the Public Hearings on the matter, and  
42 upon the background facts, findings and conclusions found in the Staff  
43 Report dated December 23, 2005, as modified, and memorandum dated  
44 February 14, 2006.

1  
2 Motion **CARRIED** by the following vote:

3  
4 **AYES:** Pogue, Kroger, Bobadilla, Maks, Winter, and  
5 Johansen.

6 **NAYS:** None.

7 **ABSTAIN:** None.

8 **ABSENT:** Stephens.  
9

10 Commissioner Pogue **MOVED** and Commissioner Kroger  
11 **SECONDED** a motion to **APPROVE** TA2005-0009 Require  
12 Annexation to THPRD and Provide Waiver Provisions based upon the  
13 testimony, reports and exhibits, and new evidence presented during  
14 the Public Hearings on the matter, and upon the background facts,  
15 findings and conclusions found in the Staff Report dated December 23,  
16 2005, as modified, and memorandum dated February 14, 2006.  
17

18 Motion **CARRIED** by the following vote:

19  
20 **AYES:** Pogue, Kroger, Bobadilla, Maks, Winter, and  
21 Johansen.

22 **NAYS:** None.

23 **ABSTAIN:** None.

24 **ABSENT:** Stephens.  
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## EXHIBIT 4

# CITY of BEAVERTON

4755 S W. Griffith Drive, P O. Box 4755, Beaverton, OR 97076 General Information (503) 526-2222 V/TDD

## STAFF REPORT

**TO:** Planning Commission

**HEARING DATE:** January 25, 2006

**STAFF:** Alan Whitworth, AICP, Senior Planner *AW*

**SUBJECT:** Amendments to the Development Code (TA 2005-0009) to require property requesting development approvals to annex to Tualatin Hills Park and Recreation District (THPRD).

**REQUEST:** City initiated legislative amendments to the Development Code Sections 40.93, 50.90 and 60.33. To require properties that apply for a Conditional Use, Design Review and/or Land Division in the City of Beaverton to annex to THPRD, the parks and recreation provider for the City. This is to comply with Statewide Planning Goal 11.

**APPLICANT:** City of Beaverton.

**AUTHORIZATION:** Ordinance 2050 (Development Code).

**DATE:** January 10, 2006.

**RECOMMENDATION:** Approve TA 2005-0009 adding Development Code Section 60.33 requiring properties that apply for a Conditional Use, Design Review or Land Division in the City of Beaverton to annex to the Tualatin Hills Park and Recreation District, the parks and recreation provider for the City of Beaverton. Also, adding Section 40.93 and amending Section 50.90 to provide for a waiver for this requirement if certain conditions are met.

## **SUMMARY**

---

Tualatin Hills Park and Recreation District (THPRD) is the primary park and recreation service provider for the City of Beaverton. Almost all property in the City is in the Park District. However, some properties in the City and some properties that will be annexing to the City are not in the Park District. Statewide Planning Goal 11 states: "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." Recreational facilities and services are listed in the Goal as services the City is to make provisions for in our Comprehensive Plan. The primary way the City made provisions for park and recreation facilities was to adopt the Tualatin Hills Park & Recreation District's 20-Year Comprehensive Master Plan and Trails Master Plan. THPRD is currently in the process of updating these plans and the City of Beaverton is participating in that process. The proposed amendments to the Comprehensive Plan are intended to make it even clearer that THPRD is the primary park and recreation provider for the City. The amendments to the Development Code require annexation to the Park District when properties that receive approval for a Conditional Use, Design Review or Land Division from the City unless approval criteria are met for a waiver from the requirement.

## **COMPREHENSIVE PLAN AMENDMENT SUMMARY**

There is a separate staff report that addresses the related Comprehensive Plan amendment. The proposed Plan changes are to make it clear that THPRD is the primary provider of park and recreation services to the City. In addition, an Action statement is proposed that would require the City to "Amend the Development Code to require owners of properties applying for a conditional use, design review or land division to annex to THPRD and to pay THPRD's System Development Charges." The proposed amendments to the Development Code addressed in this staff report are intended to accomplish that directive.

## **DEVELOPMENT CODE AMENDMENTS SUMMARY**

The addition of Section 60.33 to the Development Code establishes the requirement that the approval of any conditional use, design review or land division within the City that is not also in the THPRD shall be conditioned on proof that a petition has been submitted for annexation to the THPRD. This Section further states that building permits shall not be issued until the annexation to the District is effective unless the applicant agrees in writing to pay THPRD's System Development Charges. Section 60.33.15 allows for a waiver of these requirements if the conditions of Section 40.93 are met.

Section 40.93 is also entirely new and allows for a waiver of the requirement to annex to THPRD through a Type 3 procedure provided facilities and services deemed to be similar to those provided by THPRD are instead provided by the development for its residents or employees. Recreation services shall be deemed similar if provided at a cost and quality level equal to or greater than the minimum set for such services in the THPRD Comprehensive Master Plan.

The proposed change to Section 50.90 establishes a two year expiration date on the waiver approval unless the approval is enacted either through construction or establishment of the use.

## **DEVELOPMENT CODE APPROVAL CRITERIA**

The approval criteria are contained in Section 40.85.15.1.C. of the Development Code.

**C. Approval Criteria. In order to approve a Text Amendment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:**

- 1. The proposal satisfies the threshold requirements for a Text Amendment application.**

Section 40.85.15.1.A specifies that an application for a text amendment shall be required when there is proposed any change to the Development Code, excluding changes to the zoning map. TA 2005-00009 (requiring annexation to the Tualatin Hills Park and Recreation District) proposes to add Sections 40.10 and 60.33 and amend Section 50.90 of the Beaverton Development Code currently effective through Ordinance 4365 (October 2005). Therefore, staff finds that approval criterion one has been met.

- 2. All City application fees related to the application under consideration by the decision making authority have been submitted.**

Policy Number 470.001 of the City's Administrative Policies and Procedures manual states that fees for a City initiated application are not required where the application fee would be paid from the City's General Fund. The Planning Services Division, which is a General Fund program, initiated the application. Therefore, the payment of an application fee is not required. Staff finds that approval criterion two is not applicable.

**3. The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.**

These amendments are being proposed to comply with the proposed amendments to the Comprehensive Plan. In particular, Policy 5.8.1.i) and its associated Action statement that requires these amendments to the Development Code. The staff report for the Comprehensive Plan amendment addressed the Metro Urban Growth Functional Plan. Titles one through twelve were addressed individually in that staff report and since these amendments are simply complying with that Comprehensive Plan amendment staff accepts those findings here by reference. Those findings found that proposed Comprehensive Plan amendment complied with the Functional Plan. Since the Plan amendment required these amendments, staff finds that criterion three has been met.

**4. The proposed text amendment is consistent with the City's Comprehensive Plan.**

These amendments are being proposed to implement the proposed Comprehensive Plan Policy 5.8.1.i) which states: "THPRD is the park and recreation provider for the City of Beaverton and the City desires that all property within its boundaries be within THPRD's boundaries." This proposed Policy has an Action statement associated with it that calls for the City to "Amend the Development Code to require owners of properties applying for a conditional use, design review or land division to annex to THPRD and to pay THPRD's System Development Charges." These proposed amendments to the Development Code are to implement the above Policy and Action statement of the Comprehensive Plan (if adopted) and, therefore, staff finds that approval criterion four has been met.

**5. The proposed text amendment is consistent with other provisions within the City's Development Code.**

The proposed amendments do not create impacts or conflicts with other provisions within the Development Code. These text amendments propose to require annexation to THPRD for any property that applies for a Conditional Use, Design Review or Land Division that is not already in the District. They also allow for a waiver of this requirement if recreational facilities and service similar to those provided by THPRD are provided. Staff finds that proposed amendments are consistent with the other provisions of the Development Code and, therefore, approval criterion five has been met.

**6. The proposed amendment is consistent with all applicable City ordinance requirements and regulations.**



The current Development Code and Comprehensive Plan are applicable to the proposed text amendment and are addressed in the findings of fact for approval criteria four and five. Staff did not identify any other applicable City ordinance requirements or regulations that would be affected by or would conflict with the proposed text amendments. Therefore, staff finds that approval criterion six has been met.

**7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.**

These text amendments to the Development Code are being proposed to implement the proposed amendments to the Comprehensive Plan. The staff report and proposed amendments for the Comprehensive Plan changes have been submitted. Staff has determined that there are no other applications or documents related to this request that will require further City approval. Therefore, staff finds that approval criterion seven has been met.

**Statewide Planning Goals**

Because the proposal is for a text amendment to the Development Code, a demonstration of compliance with the Statewide Planning Goals is not required. ORS 197.225 requires that Statewide Planning Goals only be addressed for Comprehensive Plan Amendments. The Goals are addressed in the separate staff report for the Comprehensive Plan amendment.

**CONCLUSION**

Staff concludes that the proposed Development Code Amendments meet the burden of proof regarding Development Code text amendment criteria 40.85.15.1.C.1 through 40.85.15.1.C.7.

**APPLICATION PROCESSING**

**Processing:**

City staff proposes legislative Development Code text amendments requiring a public hearing before the Planning Commission. Notice was given in accordance with Section 50.50 of the Development Code.

The Commission, after the public hearing, shall approve, approve with modification, continue, or reject the amendment proposals.

**Appeals:**

Appeal of the Commission decision regarding the proposed amendments is to the City Council. The procedure for filing such an appeal and the manner of the hearing is governed by the provisions found within Section 50.75 of the Development Code. The appeal request must be made in writing and delivered to the city within 10 calendar days from the date of the Land Use Order memorializing the Commission's decision. In addition, there is a non-refundable \$1,276.00 fee for each application being appealed, which must accompany the request for hearing.

Appeal of the City Council decision regarding this proposal shall be made to the Land Use Board of Appeals (LUBA). The procedure for filing such an appeal and the manner of the hearing shall be governed by ORS 197.620 and ORS 197.845.

**120 Day Requirement:**

Legislative amendments to the Development Code are not subject to the 120 rule (Oregon Revised Statute 227.178).

**Public Notice:**

1. The required notice was sent to the Department Land Conservation and Development more than 45 days prior to the public hearing and copies were sent to the Neighborhood Office, the Chair of the Committee for Citizen Involvement (CCI) and the Sexton Mountain and Neighbors Southwest Neighborhood Association Committees (NAC).
2. Legal notice was published in the Beaverton Valley Times on December 15, 2005
3. All owners of property in the City of Beaverton whose property is not in Tualatin Hills Park and Recreation District will be sent notice.
4. Notice was posted in Beaverton City Hall, the Beaverton Library and the Beaverton Post Office.
5. The file can be viewed at the Community Development Department and copies can be obtained at cost.
6. The staff report and notices will be posted on the City's public web site.
7. All notices will be provided at least thirty days before the hearing.

Attachment:            Proposed Amendments to the Development Code

Additions are ***bolded and italicized*** and deletions are ~~struck through~~.

**40.93. TUALATIN HILLS PARK AND RECREATION DISTRICT ANNEXATION WAIVER**

**40.93.05. Purpose.**

*The purpose of this section is to provide for the application of a Tualatin Hills Park and Recreation annexation waiver, which allows a waiver from the requirement to annex property into the Tualatin Hills Park and Recreation District as a condition of approval of any development as specified in Section 60.33 of this Code.*

**40.93.10. Applicability**

*A THPRD annexation waiver may only be requested by the property owner(s) for any development proposed outside of THPRD boundaries who wish to provide their own park and recreation facilities and services rather than annex the site to THPRD.*

**40.93.15. Application.**

*There is a single THPRD annexation waiver application which is subject to the following requirements.*

**1. THPRD Annexation Waiver.**

**A. Threshold.** *An application for a THPRD annexation waiver shall be required when the following threshold applies:*

**1.** *The property proposed for development is not in the Tualatin Hills Park and Recreation District (THPRD) and the applicant wishes to provide park and recreation facilities and services for the development rather than annex the site to THPRD.*

**B. Procedure Type.** *The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for a THPRD annexation waiver.*

C. Approval Criteria. *In order to approve a THPRD annexation waiver application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:*

1. *The proposal satisfies the threshold requirements for a THPRD annexation waiver application.*
2. *All City application fees related to the application under consideration by the decision making authority have been submitted.*
3. *Detailed plans and documentation demonstrating compliance with Section 60.33.15. Park facilities shall be deemed similar if provided for the projected number of future residents and/or employees of the proposed development at an acreage to population ratio equal to or greater than the minimum set for the core park system in the THPRD Comprehensive Master Plan. Improvements within provided park facilities shall be deemed similar if at least two of the following are provided: a tennis court, a basketball court, a swimming pool, or a children's play structure; and at least one of the following is also provided: a baseball/softball field, a soccer field, or a community/recreation center. Recreation services shall be deemed similar if provided for future residents or employees of the proposed development at a cost and quality level equal to or greater than the minimum set for such services in the THPRD Comprehensive Master Plan.*
4. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

- D. Submission Requirements. *An application for a THPRD annexation waiver shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.*
- E. Conditions of Approval. *The decision making authority may impose conditions on the approval of a THPRD annexation waiver application to ensure compliance with the approval criteria.*
- F. Appeal of a Decision. *Refer to Section 50.70.*
- G. Expiration of a Decision. *Refer to Section 50.90.*

## **50.90.        Expiration of a Decision**

1.    Except as otherwise specifically provided in a specific decision or in this Code, a final decision made pursuant to this Chapter shall expire automatically on the following schedule unless the approval is enacted either through construction or establishment of use within the specified time period.
  - A.    Five (5) years from the effective date of decision: Final Planned Unit Development (40.15.15.6) where phasing of the development is proposed.
  - B.    Two (2) years from the effective date of decision:
    - Accessory Dwelling Unit (40.05.15.1)
    - Administrative Conditional Use (40.15.15.3)
    - Alteration of a Landmark (40.35.15.1)
    - Conditional Use (40.15.15.4)
    - Demolition of a Landmark (40.35.15.3)
    - Design Review Two (40.20.15.2)
    - Design Review Three (40.20.15.3)
    - Emergency Demolition of a Landmark (40.35.15.2)
    - Expedited Land Division (40.45.15.7)
    - Final Land Division (40.45.15.6)
    - Final Planned Unit Development (40.15.15.6) when there is no phasing to the development
    - Flexible Setback for Individual Lot With Endorsement (40.30.15.1)
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    - Flexible Setback for a Proposed Residential Land Division (40.30.15.3)
    - Flexible Setback for a Proposed Annexation (40.30.15.4)
    - Lot Line Adjustment (40.45.15.1)
    - Major Adjustment (40.10.15.3)
    - Major Adjustment - All Regional Center zones and South Tektronix Station Community Major Pedestrian Routes (40.10.15.4)
    - Major Modification of a Conditional Use (40.15.15.2)
    - Minor Adjustment (40.10.15.1)

Minor Adjustment - All Regional Center zones and South  
Tektronix Station Community Major Pedestrian  
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Preliminary Fee Ownership Partition (40.45.15.4)

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Public Transportation Facility (40.57.15.1)

Tree Plan One (40.90.15.1)

Tree Plan Two (40.90.15.2)

Tree Plan Three (40.90.15.3)

***THPRD Annexation Waiver (40.93.15)***

Variance (40.95.15.1)

Wireless Facility One (40.96.15.1)

Wireless Facility Two (40.96.15.2)

Wireless Facility Three (40.96.15.3)

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Residential Land Division (40.30.15.5)

Zero Side Yard Setback for a Proposed Non-Residential  
Land Division (40.30.15.6)

C. One (1) year from the effective date of the decision:

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Home Occupation One (Section 40.40.15.1)

Home Occupation Two (Section 40.40.15.2)

Loading Determination (Section 40.50.15.1)

Parking Requirement Determination (Section 40.55.15.1)

Shared Parking (Section 40.55.15.2)

Signs (Section 40.60.15.1)

Solar Access (Section 40.65.15.1)

Use of Excess Parking (Section 40.55.15.3)

D. No expiration date:

Director's Interpretation (40.25.15.1)

Discretionary Annexation Related Zoning Map  
Amendment (40.97.15.4).

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Non-Discretionary Annexation Related Zoning Map  
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Quasi-Judicial Zoning Map Amendment (40.97.15.1)

Street Vacation (40.75.15.1)  
Text Amendment (40.85.15.1)  
Tree Plan Four (40.90.15.4)

[ORD 4265; September 2003] [ORD 4332; November 2004]

2. The effective date of the decision for Type 1, Type 2, or Type 3 applications shall be the date that the signed land use order is dated and mailed, unless appealed. If a Type 1, Type 2, or Type 3 application is appealed, the effective date of the decision shall be the date of the appellate decision making authority's signed land use order is dated and mailed. The effective date of decision for a Type 4 application is thirty (30) calendar days after the Mayor signs the ordinance, unless an emergency is declared in which case the ordinance is effective immediately upon signature of the Mayor.
3. A decision shall expire according to Section 50.90.1 unless one of the following occurs prior to the date of expiration:
  - A. An application for an extension is filed pursuant to Section 50.93; or
  - B. The development authorized by the decision has commenced as defined herein.
    1. The use of the subject property has changed as allowed by the approval;
    2. In the case of development requiring construction, a construction permit has been issued and substantial construction pursuant thereto has taken place; or
    3. In the case of development authorized to be done in phases, each phase must be commenced within the time specified in the approval, or within two (2) years of completion of the prior phase if no time is specified.
    4. The 45 day to five (5) year time begins from the effective date of the decision. Appeal of a decision to LUBA does not extend the time.



This Section is entirely new and is shown ***bolded and italicized***.

**60.33.      *PARK AND RECREATION FACILITIES AND SERVICES PROVISION***

**60.33.05.      *Purpose. The City of Beaverton has declared Tualatin Hills Parks and Recreation District (THPRD) as the parks and recreation provider for the City (Policy 5.8.1.h. of the Comprehensive Plan). Since THPRD is the parks and recreation provider for the City, annexation to the District will generally be required by the City for all new development or redevelopment of properties that are outside THPRD boundaries. The provisions of this Section are designed to:***

- 1.      *Ensure that all residents of the City of Beaverton have access to high quality recreational facilities and services; and***
- 2.      *Require all new development to pay its fair share for the park and recreational system that serves Beaverton.***

**60.33.10.      *Annexation to THPRD.***

*Except as provided in Section 60.33.15, the approval of conditional use, design review or land division for any property located in the City of Beaverton and not within THPRD's boundaries shall be conditional on the submittal of a legally sufficient petition to annex the property to THPRD and the delay of issuance building permits until the annexation is effective. Delay of issuance of building permits until after the annexation is effective may be waived as a condition of approval by the review authority if the applicant agrees in writing to pay the appropriate THPRD Systems Development Charge for all building permits issued prior to the effective date of annexation.*

**60.33.15.      *Waiver of Requirement.***


*Any proposed development that can document to the City's satisfaction that it will provide park land, recreation facilities and services at a level similar to that provided by THPRD may have the requirements of Section 60.33.10 waived by the City. See Section 40.93.15.*



# MEMORANDUM

City of Beaverton  
Community Development Department

*"make it happen"*

**To:** Planning Commission  
**From:** Alan Whitworth   
**Date:** February 14, 2006  
**Subject:** CPA 2005-0008 and TA 2005-0009

---

The Planning Commission heard CPA 2005-0008 and TA 2005-0009 on January 25, 2006. The proposal was to require properties that apply for a Conditional Use, Design Review and/or Land Division to annex to the Tualatin Hills Park and Recreation District if the property was not already in the District. The Planning Commission suggested changes to two of the four sections proposed for amendment and continued the hearing until February 22, 2006. Staff has incorporated the suggested changes in the attached amendments. These changes are in 40.93.15.1.C.3 and 60.33.10.

Commissioner Kroger suggested changes to 40.93.15.1.C.3. In the first sentence, she recommended replacing "...at an acreage to population ratio..." with "...at cost, quality and service levels...". In the third sentence she recommended replacing "...a cost, and quality level..." with "...cost, quality and service levels...". Commissioner Johansen suggested changes to 60.33.10. He recommended changing the first sentence from "Except as provided in Section 60.33.15, the approval of conditional use, design review or land division for any property located in the City of Beaverton and not within THPRD's boundaries shall be conditional on the submittal of a legally sufficient petition to annex the property to THPRD and the delay of issuance building permits until the annexation is effective." to "Except as provided in Section 60.33.15, the approval of a conditional use, design review or land division for any property located in the City of Beaverton, and not within THPRD's boundaries, shall be conditional on the submittal of a legally sufficient petition to annex the property to THPRD; issuance of building permits shall be delayed until the annexation is effective."

Attachments

Proposed additions are shown in ***bold and italicized type*** and deletions are ~~struck through~~.

## **5.8 PARKS AND RECREATION**

Parks and recreation facilities are basic and essential for the health and welfare of the community. The City coordinates the land use aspects of locating these facilities but does not predetermine sites. Location and improvement decisions for these types of facilities are the responsibility of the Tualatin Hills Park and Recreation District (THPRD), ***which is the parks and recreation provider for the City of Beaverton.***

As Beaverton and the Metro area become more densely developed, the number, location, size and quality of parks and recreation facilities have become increasingly more important. The demand for these facilities has been brought about in part by a higher standard of living; more leisure time resulting from such things as shorter work weeks, earlier retirement, and increasing life span; higher densities of development and a continuing emphasis on health and exercise. The by-products of urbanization in terms of congestion, air pollution and noise have also created a greater awareness of the need for open space in the urban environment. An adequate park and recreation system contributes to the physical and mental health of the community and can be a source of community pride.

As features in the urban landscape, parks improve the character of neighborhoods and tend to stabilize ***and improve*** property values. Also, many businesses and industries seek locations with a high level of environmental quality as a means of increasing their ability to attract and retain a stable and productive work force. ***THPRD facilities are available to residents of the district, to employees who work in the district and to others by paying an out of district fee.*** With improved transportation systems giving greater flexibility for business and industrial site selection, a well-developed park and recreation system can be an important factor in attracting such developments to the community.

THPRD is ***a special service district*** ~~independent from the City~~ with its own elected five-member Board of Directors and taxing authority. THPRD was established in 1955. THPRD's boundary includes ***almost all of the land currently within Beaverton's City limits and*** most of Beaverton's ~~assumed~~ Urban Services Area. THPRD, ~~for the most part,~~ has developed ~~its own~~ ***an*** acquisition and development plan pursuant to the adopted Tualatin Hills Park & Recreation District 20-Year Comprehensive and Trails Master Plans, which are adopted here by reference. In addition to donations and outright purchases, the THPRD works with the City and Washington County through the land development process to obtain sites by dedication.

The THPRD's plan recognizes different types of park and recreation facilities including regional, neighborhood, community and specialty parks, school parks, recreational/aquatic center, multi-use trail system plan, off-street trail corridors and natural areas along streams. These descriptive park designations relate to the function or

character of the parks shown on THPRD's 20-Year Comprehensive Park & Recreation and Trails Master Plans. As the area grows, opportunities will occur in addition to those shown on the plan. Each should be evaluated in terms of conformance with this plan's goals and policies and those of the THPRD 20-Year Comprehensive Park & Recreation and Trails Master Plans.

*The City has declared that THPRD is the park and recreation provider for the City. Almost all of the City's current land area is in the district. Statewide Planning Goal 11: Public Facilities and Services requires cities and counties: "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." This requirement for urban areas includes recreation facilities and services. Beaverton has complied with this requirement by cooperating and coordinating with THPRD and by adopting their Plans into this Comprehensive Plan by reference. The City does provide some park and recreation facilities but it has no intention of being the primary provider of these facilities or services. Most of Beaverton's unincorporated Urban Service Area is in THPRD. Some of Beaverton's Urban Services Area is not in THPRD and since the City does not intend to be the primary parks and recreation provider to those areas they need to annex to the THPRD, if they develop in the City. To comply with Goal 11 the City will require the owners of property that is proposed for development or redevelopment but not in THPRD, to annex to the District and pay THPRD System Development Charges unless it can be demonstrated the development will provide park land, recreation facilities and services at a level that is similar to that provided by THPRD.*

The Portland General Electric (PGE)/Bonneville Power Administration (BPA) transmission lines provide opportunities for open space and trail corridors in the community. These rights-of-way will not be converted to intensive urban land uses in the foreseeable future.

**5.8.1 Goal: Cooperate with THPRD in implementation of its 20-Year Comprehensive Master Plan and Trails Master Plan in order to ensure adequate parks and recreation facilities and programs for current and future City residents.**

**POLICIES:**

- a) The City shall support and encourage THPRD efforts to provide parks and recreation facilities that will accommodate growth while recognizing the limited supply of buildable land in the city for such facilities.
- b) The City shall encourage THPRD to provide parks and recreation facilities throughout the City in locations that are easily accessible to those they are intended to serve.

- c) The City shall support and encourage acquisition of park and recreation sites in advance of need so that the most appropriate sites are available for these vital public facilities.

***Action 1: The City shall work with THPRD to further explore opportunities for mixing public park and recreation activities with revenue-generating public/private partnerships such as restaurants, recreation and aquatic centers, sports complexes, or other concession activities, in order to help finance recreation programming, park acquisition, and maintenance.***

- d) The City shall notify THPRD of development proposals that may potentially impact a present or future park site to allow the district the opportunity to comment, purchase or request dedications.
- e) A number of financial incentives exist to encourage private property owners to donate, dedicate, or provide easements for resource preservation, park, trail or open space use. The City shall work cooperatively with property owners and THPRD to maximize the use of these tools for the benefit of the community.
- f) To offset increased densities and to meet the needs of the population, the City and THPRD should work together to provide urban scale public spaces in regional centers, town centers, station communities and main street areas within the city.
- g) The planning, acquisition and development of multi-use paths should be consistent with this Plan's Transportation Element and THPRD's Trail Master Plan.
- h) The City shall encourage park acquisition and appropriate development in areas designated as Significant Natural Resources, as defined by Volume III of this Comprehensive Plan.
- i) ***THPRD is the park and recreation provider for the City of Beaverton and the City desires that all property within its boundaries be within THPRD's boundaries.***

***Action 1: Amend the Development Code to require owners of properties applying for a conditional use, design review or land division to annex to THPRD and to pay THPRD's System Development Charges.***

Additions are ***bolded and italicized*** and deletions are ~~struck through~~.

**40.93. TUALATIN HILLS PARK AND RECREATION DISTRICT  
ANNEXATION WAIVER**

**40.93.05. Purpose.**

*The purpose of this section is to provide for the application of a Tualatin Hills Park and Recreation annexation waiver, which allows a waiver from the requirement to annex property into the Tualatin Hills Park and Recreation District as a condition of approval of any development as specified in Section 60.33 of this Code.*

**40.93.10. Applicability**

*A THPRD annexation waiver may only be requested by the property owner(s) for any development proposed outside of THPRD boundaries who wish to provide their own park and recreation facilities and services rather than annex the site to THPRD.*

**40.93.15. Application.**

*There is a single THPRD annexation waiver application which is subject to the following requirements.*

**1. THPRD Annexation Waiver.**

**A. Threshold.** *An application for a THPRD annexation waiver shall be required when the following threshold applies:*

**1.** *The property proposed for development is not in the Tualatin Hills Park and Recreation District (THPRD) and the applicant wishes to provide park and recreation facilities and services for the development rather than annex the site to THPRD.*

**B. Procedure Type.** *The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for a THPRD annexation waiver.*

- C. Approval Criteria. *In order to approve a THPRD annexation waiver application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:*
1. *The proposal satisfies the threshold requirements for a THPRD annexation waiver application.*
  2. *All City application fees related to the application under consideration by the decision making authority have been submitted.*
  3. *Detailed plans and documentation demonstrating compliance with Section 60.33.15. Park facilities shall be deemed similar if provided for the projected number of future residents and/or employees of the proposed development at cost, quality and services levels equal to or greater than the minimum set for the core park system in the THPRD Comprehensive Master Plan. Improvements within provided park facilities shall be deemed similar if at least two of the following are provided: a tennis court, a basketball court, a swimming pool, or a children's play structure; and at least one of the following is also provided: a baseball/softball field, a soccer field, or a community/recreation center. Recreation services shall be deemed similar if provided for future residents or employees of the proposed development at cost, quality and service levels equal to or greater than the minimum set for such services in the THPRD Comprehensive Master Plan.*
  4. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

- D. Submission Requirements. An application for a THPRD annexation waiver shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.***
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a THPRD annexation waiver application to ensure compliance with the approval criteria.***
- F. Appeal of a Decision. Refer to Section 50.70.***
- G. Expiration of a Decision. Refer to Section 50.90.***



Additions are ***bolded and italicized*** and there are no deletions

**50.90.        Expiration of a Decision**

1.     Except as otherwise specifically provided in a specific decision or in this Code, a final decision made pursuant to this Chapter shall expire automatically on the following schedule unless the approval is enacted either through construction or establishment of use within the specified time period.

A.     Five (5) years from the effective date of decision: Final Planned Unit Development (40.15.15.6) where phasing of the development is proposed.

B.     Two (2) years from the effective date of decision:

Accessory Dwelling Unit (40.05.15.1)

Administrative Conditional Use (40.15.15.3)

Alteration of a Landmark (40.35.15.1)

Conditional Use (40.15.15.4)

Demolition of a Landmark (40.35.15.3)

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***THPRD Annexation Waiver (40.93.15)***

Variance (40.95.15.1)

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Residential Land Division (40.30.15.5)

Zero Side Yard Setback for a Proposed Non-Residential  
Land Division (40.30.15.6)

C. One (1) year from the effective date of the decision:

Design Review Compliance Letter (40.20.15.1)

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Tree Plan Four (40.90.15.4)

[ORD 4265; September 2003] [ORD 4332; November 2004]

2. The effective date of the decision for Type 1, Type 2, or Type 3 applications shall be the date that the signed land use order is dated and mailed, unless appealed. If a Type 1, Type 2, or Type 3 application is appealed, the effective date of the decision shall be the date of the appellate decision making authority's signed land use order is dated and mailed. The effective date of decision for a Type 4 application is thirty (30) calendar days after the Mayor signs the ordinance, unless an emergency is declared in which case the ordinance is effective immediately upon signature of the Mayor.
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  - B. The development authorized by the decision has commenced as defined herein.
    1. The use of the subject property has changed as allowed by the approval;
    2. In the case of development requiring construction, a construction permit has been issued and substantial construction pursuant thereto has taken place; or
    3. In the case of development authorized to be done in phases, each phase must be commenced within the time specified in the approval, or within two (2) years of completion of the prior phase if no time is specified.
    4. The 45 day to five (5) year time begins from the effective date of the decision. Appeal of a decision to LUBA does not extend the time.

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**60.33. PARK AND RECREATION FACILITIES AND SERVICES PROVISION**

**60.33.05. Purpose.** *The City of Beaverton has declared Tualatin Hills Parks and Recreation District (THPRD) as the parks and recreation provider for the City (Policy 5.8.1.h. of the Comprehensive Plan). Since THPRD is the parks and recreation provider for the City, annexation to the District will generally be required by the City for all new development or redevelopment of properties that are outside THPRD boundaries. The provisions of this Section are designed to:*

- 1. Ensure that all residents of the City of Beaverton have access to high quality recreational facilities and services; and*
- 2. Require all new development to pay its fair share for the park and recreational system that serves Beaverton.*

**60.33.10. Annexation to THPRD.**

*Except as provided in Section 60.33.15, the approval of a conditional use, design review or land division for any property located in the City of Beaverton, and not within THPRD's boundaries, shall be conditional on the submittal of a legally sufficient petition to annex the property to THPRD; issuance of building permits shall be delayed until the annexation is effective. Delay of issuance of building permits until after the annexation is effective may be waived as a condition of approval by the review authority if the applicant agrees in writing to pay the appropriate THPRD Systems Development Charge for all building permits issued prior to the effective date of annexation.*

**60.33.15. Waiver of Requirement.**

*Any proposed development that can document to the City's satisfaction that it will provide park land, recreation facilities and services at a level similar to that provided by THPRD may have the requirements of Section 60.33.10 waived by the City. See Section 40.93.15.*

## AGENDA BILL

Beaverton City Council  
Beaverton, Oregon

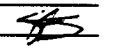
**SUBJECT:** TA 2006-0001 Scoreboard Sign

**FOR AGENDA OF:** 04-10-06 **BILL NO:** 06060

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** CDD 

**DATE SUBMITTED:** 3-28-06

**CLEARANCES:** City Attorney   
Dev. Serv. 

**PROCEEDING:** First Reading

**EXHIBITS:** 1. Ordinance  
2. Land Use Order No. 1854  
3. Draft PC Minutes 03-08-06  
4. Staff Report dated 03-01-06

### **BUDGET IMPACT**

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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### **HISTORICAL PERSPECTIVE:**

On March 8, 2006, the Planning Commission held a public hearing to consider TA 2006-0001 Scoreboard Sign that proposes to amend selected sections of the Beaverton Development Code currently effective through Ordinance 4365 (November 2005) to allow signs located on scoreboards associated with public and private schools and public park athletic fields that are visible from the public right-of-way. Affected chapters of the Development Code include Chapter 60 (Special Regulations) and Chapter 90 (Definitions). Following the close of the public hearing on March 8, 2006, the Planning Commission voted 6-1 (Maks abstained) to recommend approval of the proposed Scoreboard Sign Text Amendment, as memorialized in Land Use Order No. 1854.

### **INFORMATION FOR CONSIDERATION:**

Attached to this Agenda Bill is an Ordinance including the proposed text, Land Use Order No. 1854, the draft Planning Commission meeting minutes, and staff report.

### **RECOMMENDED ACTION:**

Staff recommends the City Council approve the recommendation of the Planning Commission for TA 2006-0001 Scoreboard Sign as set forth in Land Use Order No. 1854. Staff further recommends the Council conduct a First Reading of the attached ordinance.

ORDINANCE NO. 4389

AN ORDINANCE AMENDING ORDINANCE NO. 2050,  
THE DEVELOPMENT CODE,  
CHAPTERS 60 and 90;  
TA 2006-0001 Scoreboard Sign

**WHEREAS**, the purpose of the Scoreboard Sign Text Amendment is to amend selected sections of the Beaverton Development Code currently effective through Ordinance 4365 (November 2005) to allow for the insertion of signs on Scoreboards that are visible from the public right-of-way. Affected chapters of the Development Code include Chapter 60 (Special Regulations) and Chapter 90 (Definitions); and

**WHEREAS**, pursuant to Section 50.50.5 of the Development Code, the Beaverton Development Services Division, on March 1, 2006, published a written staff report and recommendation a minimum of seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on March 8, 2006; and,

**WHEREAS**, the Planning Commission held a public hearing on March 8, 2006 and approved the proposed Scoreboard Sign Text Amendment based upon the criteria, facts, and findings set forth in the staff report dated May 19, 2003, and as amended at the hearing; and

**WHEREAS**, on March 8, 2006 the Planning Commission conducted a public hearing for TA 2006-0001 Scoreboard Sign at the conclusion of which the Planning Commission voted to recommend to the Beaverton City Council to adopt the proposed amendments to the Development Code as summarized in Planning Commission Land Use Order No. 1854; and,

**WHEREAS**, no written appeal pursuant to Section 50.75 of the Development Code was filed by persons of record for TA 2006-0001 Scoreboard Sign following the issuance of the Planning Commission Land Use Order No. 1854; and,

**WHEREAS**, the City Council adopts as to criteria, facts, and findings described in Land Use Order No. 1854 dated March 23, 2006 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now therefore,

**THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:**

**Section 1.** Ordinance No. 2050, effective through Ordinance No. 4365, the Development Code, is amended to read as set out in Exhibit "A" of this Ordinance attached hereto and incorporated herein by this reference.

**Section 2.** All Development Code provisions adopted prior to this Ordinance which are not expressly amended or replaced herein shall remain in full force and effect.

**Section 3. Severance Clause.** The invalidity or lack of enforceability of any terms or provisions of this Ordinance or any appendix or part thereof shall not impair or otherwise affect in any manner the validity, enforceability or effect of the remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to effect the evident intent and purposes taken as a whole insofar as reasonably possible under all of the relevant circumstances and facts.

First reading this \_\_\_\_ day of \_\_\_\_\_, 2006.

Passed by the Council this \_\_\_\_ day of \_\_\_\_\_, 2006.

Approved by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2006.

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

**Section 1:** The Development Code, Ordinance No. 2050, Ordinance 4248, Chapter 60 – Special Regulations, Section 60.40, Signs, specifically Section 60.40.15.3., will be amended to read as follows:

\*\*\*\*\*

**60.40.20. Signs Subject to Ordinance Regulation - Permit Required.** The following signs are subject to all ordinance regulations and permits are required prior to on-site construction, installation or placement.

**Scoreboard Sign –** Public and private school and public park facility athletic scoreboards visible from a public right-of-way may include one scoreboard sign that comprises no more than 25 percent of the scoreboard and is no larger than 85 square feet in size, and no portion of the sign shall be located higher than 15 feet above grade on which the sign is located.

\*\*\*\*\*

**Section 2:** The Development Code, Ordinance No. 2050, Ordinance 4248, Chapter 90 – Definitions, will be amended to read as follows:

**Scoreboard Sign** – A sign located on a scoreboard that is accessory to an athletic field used to record or tally scores at athletic or sporting events.



**BEFORE THE PLANNING COMMISSION FOR  
THE CITY OF BEAVERTON, OREGON**

IN THE MATTER OF A REQUEST TO	) ORDER NO. 1854
AMEND BEAVERTON DEVELOPMENT	) TA2006-0001 RECOMMENDING APPROVAL
CODE CHAPTER 60 AND 90	) OF SCOREBOARD SIGN TEXT AMENDMENT.
(SCOREBOARD SIGN). CITY OF	)
BEAVERTON, APPLICANT.	)

The matter of TA2006-0001 (Scoreboard Sign) was initiated by the City of Beaverton, through the submittal of a text amendment application to the Beaverton Community Development Department.

Pursuant to Ordinance 2050 (Development Code), effective through Ordinance 4365, Section 50.50 (Type 4 Application), the Planning Commission conducted a public hearing on March 8, 2006, and considered oral and written testimony and exhibits for the proposed amendment to the Beaverton Development Code.

TA2006-0001 (Scoreboard Sign) proposes to amend Development Code Chapter 60 and 90 to allow signage on scoreboards that are accessory to public and private school and public park athletic field scoreboards.

The Planning Commission adopts by reference the March 1, 2006, Staff Report, revised code language as amended at the hearing, as to criteria contained in Section 40.85.15.1.C.1-7 applicable to this request and the supplemental findings contained herein; now, therefore:

**IT IS HEREBY ORDERED** that pursuant to Section 50.50.1 of the Beaverton Development Code, the Planning Commission **RECOMMENDS APPROVAL** of text amendments to Chapter 60 and 90 (Scoreboard Sign) contained within TA2006-0001. The Planning Commission finds that evidence has been provided demonstrating that all of the approval criteria specified in Section 40.85.15.1.C.1-7 are satisfied for the modification to Chapter 60 and 90 of the Development Code.

Motion **CARRIED** by the following vote:

**AYES:** Pogue, Stephens, Bobadilla, Kroger, Winter, and Johansen.

**NAYS:** None.

**ABSTAIN:** Maks.

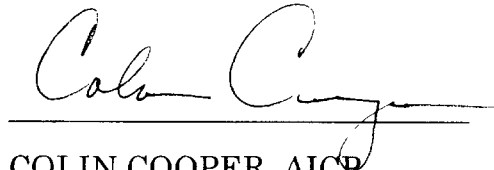
**ABSENT:** None.

Dated this 27<sup>th</sup> day of March, 2006.

To appeal the decision of the Planning Commission, as articulated in Land Use Order No. 1854, an appeal must be filed on an Appeal form provided by the Director at the City of Beaverton Recorder's Office by no later than 5:00 p.m. on Thursday, April 6, 2006.

PLANNING COMMISSION  
FOR BEAVERTON, OREGON

ATTEST:

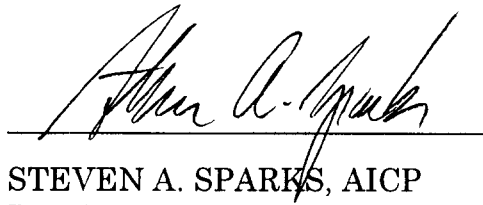


COLIN COOPER, AICP  
Senior Planner

APPROVED:



ERIC H. JOHANSEN  
Chairman



STEVEN A. SPARKS, AICP  
Development Services Manager

**PLANNING COMMISSION MINUTES**

**March 8, 2006**

**CALL TO ORDER:**

Chairman Eric Johansen called the meeting to order at 6:30 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

**ROLL CALL:**

Present were Chairman Eric Johansen, Planning Commissioners Dan Maks, Shannon Pogue, Richard Stephens, Wendy Kroger, Melissa Bobadilla, and Scott Winter.

Development Services Manager Steven Sparks, AICP, Senior Planner Colin Cooper, AICP, Assistant City Attorney William Scheidrich, and Recording Secretary Sheila Martin represented staff..

The meeting was called to order by Chairman Johansen, who presented the format for the meeting.

**VISITORS:**

Chairman Johansen asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item.

**STAFF COMMUNICATION:**

Staff indicated that there were no communications at this time.

Chairman Johansen opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

1 **NEW BUSINESS:**

2  
3 **PUBLIC HEARINGS:**

4  
5 **I. TA 2006 – 0001 - SCOREBOARD AND SIGN TEXT AMENDMENT**

6 The proposed text amendment to Section 60.40, Signs, would allow  
7 sponsorship logo signage on scoreboards that are accessory to public  
8 and private school and public park athletic fields.

9  
10 Commissioner Maks indicated that he would recuse himself from  
11 participating in this hearing and decision.

12  
13 Senior Planner Colin Cooper advised Commissioner Maks that his  
14 fellow Commissioners could potentially benefit from his expertise on  
15 this issue if he were to remain on the dais while refraining from voting  
16 on this decision.

17  
18 Mr. Sparks agreed with Mr. Cooper's assessment of the situation.

19  
20 Commissioner Maks declared that he is an elected official with the  
21 Beaverton School District.

22  
23 Mr. Cooper presented the Staff Report and briefly explained the  
24 purpose of this legislative Text Amendment and described the  
25 amendment, as follows:

26  
27 Scoreboard Logo Sign – Public and private school and public  
28 park facility athletic scoreboards visible from a public right-of-  
29 way shall be allowed one sponsor logo that may be no larger  
30 than 25 percent of the scoreboard area but no larger than 85  
31 square feet in size and is not located higher than 15 feet above  
32 the grade on which the sign is located.

33  
34 Concluding, Mr. Cooper offered to respond to questions.

35  
36 Referring to the first paragraph on page 5, Commissioner Winter  
37 expressed his opinion that public safety is determining the height of  
38 the sign.

39  
40 Mr. Cooper responded that this becomes an issue involving as it is  
41 visible from a public right-of-way and not becoming too distracting  
42 with regard to public safety.

1 Mr. Sparks mentioned that it is necessary to keep in mind that staff is  
2 not looking at the content, emphasizing that they are only considering  
3 the size, in terms of square footage, and height.

4  
5 **PUBLIC TESTIMONY:**

6  
7 No member of the public testified with regard to this proposal.

8  
9 Commissioners Bobadilla, Pogue, Winter, Stephens, Kroger, and  
10 Johansen expressed their support of this application. Commissioner  
11 Maks abstained from participating.

12  
13 Commissioner Pogue **MOVED** and Commissioner Stephens  
14 **SECONDED** a motion to **APPROVE** TA 2006-0001 – Scoreboard Logo  
15 Signs, based upon the facts and findings and Staff Report dated March  
16 1, 2006, as amended.

17  
18 **AYES:** Pogue, Stephens, Bobadilla, Kroger, Winter, and  
19 Johansen.

20 **NAYS:** None.

21 **ABSENT:** None.

22 **ABSTAIN:** Maks.

23  
24 Motion **CARRIED** 6:0.

25  
26 **MISCELLANEOUS BUSINESS:**

27  
28 The meeting adjourned at 8:52 p.m.



# CITY of BEAVERTON

4755 S.W. Griffith Drive, P.O. Box 4755, Beaverton, OR 97076 General Information (503) 526-2222 V/TDD

## CITY OF BEAVERTON STAFF REPORT AND RECOMMENDATION

**TO:** Planning Commission

**STAFF REPORT DATE:** Wednesday, March 1, 2006

**STAFF:** Colin Cooper, AICP, Senior Planner *CC*

**SUBJECT:** TA 2006-0001 (Scoreboard Logo Sign)

**REQUEST:** The proposed text amendment to Chapter 60 and 90 of the Development Code to allow sponsor logo signage on scoreboards that are accessory to public and private school and public park athletic fields.

**APPLICANT:** City of Beaverton - Development Services Division

**AUTHORIZATION:** Ordinance 2050 (Development Code), effective through Ordinance 4365)

**APPLICABLE CRITERIA:** Section 40.85.15.1.C.1-7 (Text Amendment Approval Criteria)

**HEARING DATE:** Wednesday, March 8, 2006

**RECOMMENDATION:** Staff recommend APPROVAL of text amendment application TA 2006-0001 (Scoreboard Sponsor Logo Sign)

## **I. Proposed Legislative Text Amendment**

The purpose of the proposed text amendment is to create a means by which the City can allow sponsor signage on scoreboards that are related to public and private school and public park athletic field scoreboards. The intent of this text amendment is to regulate those scoreboards visible from a public right-of-way where a sponsor logo sign is desired. Scoreboards are not currently regulated as a sign; rather they are regulated through design review and generally classified as an accessory use to an athletic field when used to tally the score of sporting event that occur on the same field. The City has repeatedly been approached by school and athletic team booster groups seeking a method to allow for sponsor logo signs on scoreboards. The legislative history of sign regulation in Beaverton has been to limit commercial signage in residential areas. Because most of the major school facilities both public and private are located in residential zones, no sign amendment has been proposed in the past. However, because of continuing requests from booster groups comprised of Beaverton citizen's and a growing need to diversify funding sources for school athletics, the City is proposing a text amendment that provides limited scoreboard sponsor logo signage.

The proposed text amendment proposes to limit sponsor logo signage to 25 percent of the total area of the scoreboard and not to exceed 85 square feet in size and be at a height no greater than 15 feet above the surrounding grade. By limiting the height of the sponsor logo signage the visual impact to surrounding residential areas from commercial signs is reduced, which is consistent with the existing sign regulations, Comprehensive Plan, and the legislative history of sign regulation in Beaverton.

**Section 1: The Development Code, Ordinance No. 2050, Ordinance 4248, Chapter 60 – Special Regulations, Section 60.40, Signs, specifically Section 60.40.15.3., will be amended to read as follows:**

\*\*\*\*\*

**60.40.20. Signs Subject to Ordinance Regulation - Permit Required.** The following signs are subject to all ordinance regulations and permits are required prior to on-site construction, installation or placement.

Scoreboard Logo Sign – Public and private school and public park facility athletic scoreboards visible from a public right-of-way shall be allowed one sponsor logo that may be no larger than 25 percent of the scoreboard area but no larger than 85 square feet in size and is not located higher than 15 feet above the grade on which the sign is located.

\*\*\*\*\*

**Section 2: The Development Code, Ordinance No. 2050, Ordinance 4248, Chapter 90 – Definitions, will be amended to read as follows:**

\*\*\*\*\*

**Scoreboard Logo Sign – A sign located on a scoreboard that is accessory to an athletic field used to record or tally scores at athletic or sporting events.**

\*\*\*\*\*

The proposed amendments to the Development Code text as shown above are attached in Exhibit 1.1.

## **II. Facts and Findings**

Section 40.85.15.1.C of the Development Code specifies that in order to approve a Text Amendment application, the decision-making authority shall make findings of fact, based on evidence provided by the applicant, that all of the criteria specified in Section 40.85.15.1.C.1-7 are satisfied. The following are the findings of fact for TA 2006-0001 (Scoreboard Sponsor Logo Sign Text Amendment):

**1. The proposal satisfies the threshold requirements for a Text Amendment application.**

Section 40.85.15.1.A specifies that an application for a text amendment shall be required when there is proposed any change to the Development Code, excluding changes to the zoning map. TA 2006-0001 (Scoreboard Sponsor Logo Sign) proposes to amend Chapter 60 and Chapter 90 of the Beaverton Development Code currently effective through Ordinance 4365 (November 2005).

Therefore, staff find that approval criterion 1 one has been met.

**2. All City application fees related to the application under consideration by the decision-making authority have been submitted.**

Policy Number 470.001 of the City's Administrative Policies and Procedures manual states that fees for a City initiated application are not required where the application fee would be paid from the City's General Fund. The Community Development Department, which is a General Fund program, initiated the application. Therefore, the payment of an application fee is not required. Staff find that approval criterion two is not applicable.

Therefore, staff find that approval criterion 2 has been met.



**3. The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.**

Metro's Urban Growth Management Functional Plan is comprised of the following titles:

- Title 1: Requirements for Housing and Employment Accommodations
- Title 2: Regional Parking Policy
- Title 3: Water Quality and Flood Management Conservation
- Title 4: Retail in Employment and Industrial Areas
- Title 5: Neighbor Cities and Rural Reserves
- Title 6: Regional Accessibility
- Title 7: Affordable Housing
- Title 8: Compliance Procedures and
- Title 9: Performance Measures

TA 2006-0001 proposes to amend Development Code Chapter 20 and 90 to allow Scoreboard Sponsor Logo Signage. Because Metro's Urban Growth Management Functional Plan (UGMFP) does not regulate signage this text amendment will not have any effect on the City's ability to remain in compliance with the UGMFP.

Therefore, staff finds that approval criterion 3 is not applicable.

**4. The proposed text amendment is consistent with the City's Comprehensive Plan.**

The following policies apply to the text amendment as it relates to the proposed text amendment.

<p><b>3.4.1 Goal: <i>Provide a policy framework for a community designed to establish a positive identity while enhancing livability.</i></b></p>
---

**Policies:**

- d) *Sign regulations shall limit the size, location, and number of signs throughout the City. Non-conforming signs shall be removed at the time of a change in use. Off-site advertising signs shall be prohibited in all districts of the City.***

Through the City's adoption and application of Development Code Section 60.40, Sign Regulations is the principle means for the implementation of the Beaverton Comprehensive Plan and specifically Goal 3.4.1 and Policy 3.4.1.d. The sign regulations are intended to ensure the aesthetic quality of the City and promote traffic safety.

The proposed text amendment seeks to allow scoreboard sponsor logo signage as described on page 2 of this report. The proposed text amendment provides for increased signage where it was previously not prohibited. Because most scoreboards are oriented towards spectators attending or associated with the athletic event at which the scoreboard is located and not towards public right-of-ways there should not be a conflict with traffic safety. The proposed sign area allowance is limited to 25 percent of the area of the scoreboard with a maximum of 85 square feet. The proposed text would require any scoreboard sponsor logo to be at a height of no more than 15 feet of surrounding grade and will be located on a structure considered an accessory use to the school that will already be in place; therefore, new sign structures are not being erected that would increase visual clutter and thus there is little adverse effect on aesthetics of the surrounding area.

Therefore, staff finds that proposed text amendment is consistent with the Comprehensive Plan Policy 3.4.1.d. and approval criterion 4 has been met.

**5. The proposed text amendment is consistent with other provisions within the City's Development Code.**

The proposed amendments do not create impacts or conflicts with other provisions within the Development Code. This text amendment proposes to insert a new type of sign in Section 60.40.20, Signs Subject to Ordinance Regulation – Permit Required. Because the text amendment proposes to allow commercial signage in residential areas not previously allowed requiring a permit in order to ensure that the sign is the proper size and height is appropriate. The proposed amendment will allow for limited area for scoreboard sponsor logos. The proposed text amendment has the potential to expand the allowed commercial signage in all zones. However, because the majority of the major public and private school athletic facilities are located in residential zones the relationship between the proposed amendment and the existing sign regulations found in Section 60.40.40 are the most critical for analysis.

Currently, Section 60.40.40, Residential Zones, limits commercial signage for non-residential uses to a single indirectly lighted sign not to exceed 32 square feet with a maximum of 8 feet. Similarly, signs related to residential subdivisions or multi-family uses are limited signs no large than 32 square feet. The proposed text amendment would allow signs up to 25 percent of the area of the scoreboard with a maximum of 85 square feet and a height not greater than 15 feet. The proposed sign area though larger than other signs allowed in the residential area are located 100 to 200 feet from their audience which are the spectators attending the athletic event. Unlike commercial signs where drivers and pedestrians come in close proximity to the sign the intended audience for a scoreboard sponsor logo will be at a constant distance thus requiring a somewhat larger sign area. Based on a review of sponsor logo signs the allowance for up to 25 percent of the area of the scoreboard provides the flexibility to add sponsor logos that will be useful for their intended

purpose without being unsightly for the surrounding community. Staff propose to allow the scoreboard sponsor logo signs to be located higher than other signs in residential zones because of the nature of the sign. Based on the scoreboard specifications reviewed by staff the lower edge of most scoreboards is 10 feet. Therefore, to enable a sign that is 25 percent of a scoreboard but no greater than 85 square feet, some flexibility staff has proposed a maximum height of 15 feet. Maintaining this height reduces the potential intrusion of placing commercial signage at the top of a large athletic scoreboard. Based on scoreboard specifications scoreboards can often reach a height of 20 to 25 feet in height. Allowing signs at this height would exceed the height allowance for free-standing signs in any zone.

Therefore, staff finds that approval criterion 5 has been met.

**6. The proposed amendment is consistent with all applicable City ordinance requirements and regulations.**

The current Development Code and Ordinance No. 4187, which adopted the current Comprehensive Plan, are applicable to the proposed text amendment and are addressed in the findings of fact for approval criterion four and five. Staff did not identify any other applicable City ordinance requirements and regulations that would be affected by or would conflict with the proposed text amendments.

Therefore, staff finds that approval criterion 6 has been met.

**7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.**

Staff have determined that there are no other applications and documents related to the request that will require further City approval.

Therefore, staff finds that approval criterion 7 has been met.

**III. Conformance with Statewide Planning Goals**

Because the proposal is for a text amendment to the Development Code, a demonstration of compliance with the Statewide Planning Goals is not required. ORS 197.225 requires that Statewide Planning Goals only be addressed for Comprehensive Plan Amendments. Nevertheless, the Statewide Planning Goals are useful to support the City's position on the proposed amendments. The proposed text amendment's conformance to relevant Statewide Planning Goals is briefly discussed below:

**GOAL ONE - CITIZEN INVOLVEMENT**

*To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

The City is in compliance with this Statewide Planning Goal through the establishment of a Committee for Citizen Involvement (CCI). The City has gone even further by establishing Neighborhood Association Committees (NACs) for the purpose of providing widespread citizen involvement, and distribution of information. The proposed text amendments to the Development Code will not change the City of Beaverton's commitment to providing opportunity for citizen involvement, or place the City out of compliance with Statewide Planning Goal One.

## GOAL TWO - LAND USE PLANNING

*To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The City of Beaverton has adopted a Comprehensive Plan that includes text and maps (Ordinance 1800, and most recently amended by Ordinance 4187) along with implementation measures such as the Development Code (Ordinance 2050, effective through Ordinance No. 4365). These land use planning processes and policy framework form the basis for decisions and actions, such as the subject text amendment proposal. The proposed Development Code amendment has been processed in accordance with Section 40.85 (Text Amendment) and Section 50.50 (Type 4 Application) of the Development Code. Section 40.85 contains specific approval criteria for the decision-making authority to apply during its consideration of the text amendment application. Section 50.50 (Type 4 Application) specifies the minimum required public notice procedures to insure public input into the decision-making process. The City of Beaverton's Comprehensive Plan is consistent with Statewide Planning Goal 2.

## **IV. Conclusion and Staff Recommendation**

Based on the facts and findings presented, staff conclude that the proposed amendment to the Development Code is consistent with all the text amendment approval criteria of Section 40.85.15.1.C.1-7. Therefore, staff recommend the Planning Commission **APPROVE** TA 2006-0001 (Scoreboard Sponsor Sign Logo Text Amendment) at the March 8, 2006 regular Commission hearing.

## **V. Exhibits**

### **Exhibit 1.1 Proposed Text Amendment**

## AGENDA BILL

### Beaverton City Council Beaverton, Oregon


**SUBJECT:** An Ordinance Supplementing Ordinance No. 4270 (Amended and Restated Master Water Revenue Bond Ordinance) and Authorizing the Issuance, Sale, Execution and Delivery of Water Revenue Bonds, in One or More Series, in an Aggregate Principal Amount Not to Exceed \$15,000,000; Related Matters; and Declaring an Emergency.

**FOR AGENDA OF:** 04/10/06 **BILL NO:** 06061

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** Finance 

**DATE SUBMITTED:** 03/20/06

**CLEARANCES:** City Attorney 

**PROCEEDING:** First Reading of Ordinance

**EXHIBITS:** Ordinance  
Agenda Bill 05158

#### **BUDGET IMPACT**

EXPENDITURE REQUIRED \$-0-	AMOUNT BUDGETED \$-0-	APPROPRIATION REQUIRED \$-0-
-------------------------------	--------------------------	---------------------------------

#### **HISTORICAL PERSPECTIVE:**

On September 12, 2005, the Council adopted Resolution 3829 authorizing the issuance of up to \$15,000,000 in water revenue bonds to finance improvements to the City's water system (copy of Agenda Bill 05158 is attached). In order to proceed with the bond sale, the Council must adopt an ordinance to authorize the sale, execution, and delivery of Water Revenue Bonds, Series 2006.

The Amended and Restated Master Water Bond Ordinance (Ordinance 4270) was last supplemented by Ordinance Number 4322 on September 20, 2004, which authorized the issuance of Water Revenue and Refunding Bonds, Series 2004B to refund the following:

1. All the outstanding 1994 Water Revenue Bonds totaling \$3,650,000 with original interest rates ranging from 5.80% to 6.125%
2. The callable portion of the 1997 Water Revenue Bonds totaling \$6,185,000 with original interest rates ranging from 5.00% to 5.25%.

The Series 2004B bonds were issued in the amount of \$10,280,000 and the new bonds were sold with interest rates ranging from 2.50% to 4.00% resulting in interest savings of \$564,792 (in present value dollars).

#### **INFORMATION FOR CONSIDERATION:**

The City's Bond Counsel, Mr. Douglas Goe of the firm Orrick, Herrington & Sutcliffe, LLP, has prepared the attached Ordinance which supplements Ordinance 4270 (Amended and Restated Master Water Revenue Bond Ordinance) and authorizes the issuance of new Water Revenue Bonds, in one or more series, in an amount not to exceed \$15,000,000 to;

- Finance the costs of additions, replacements, expansions and/or improvements to the City's water system, which may include but is not limited to:

- Constructing and equipping Aquifer Storage and Recovery Well Number 4;
- Purchasing the Dernbach Reservoir site;
- Constructing and equipping Extra Capacity Improvement Projects; and
- Finance the City's share of Joint Water Commission capital expansion projects, including, but not limited to:
  - Constructing and equipping the Second Fernhill Water Reservoir and pipeline;
  - Constructing improvements to the Water Treatment Plant (the Near Term Improvements);
  - Constructing and equipping the Northside Transmission Line Phase III which connects the new reservoir and water treatment plant improvements to the existing Northside Transmission Line;
  - Constructing and equipping the Raw Water Pipeline from Scoggins Reservoir to the Water Treatment Plant;
  - Constructing and equipping the Scoggins Dam Raise
  - Constructing and equipping the Water Treatment Plant's 10 million gallon Clearwell; and
- Finance other projects that the City or the Joint Water Commission may find necessary.

The Water Revenue Bonds are currently scheduled for a bond sale date of May 23, 2006, with a proposed closing date of June 6, 2006.

**RECOMMENDED ACTION:**

First reading of Ordinance

**ORDINANCE NO. 4390**

AN ORDINANCE SUPPLEMENTING ORDINANCE NO. 4270 (AMENDED AND RESTATED MASTER WATER REVENUE BOND ORDINANCE) AND AUTHORIZING THE ISSUANCE, SALE, EXECUTION AND DELIVERY OF WATER REVENUE BONDS, IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$15,000,000; RELATED MATTERS; AND DECLARING AN EMERGENCY.

WHEREAS, the Council enacted Ordinance No. 3977 on April 14, 1997 authorizing the issuance of Water Revenue Bonds, Series 1997 (the "1997 Bonds"); and

WHEREAS, the Council enacted Ordinance No. 4270 (Amended and Restated Master Water Revenue Bond Ordinance) on October 13, 2003 authorizing the issuance of Water Revenue and Refunding Bonds, Series 2004 (the "2004 Bonds"), payable on a parity with the 1997 Bonds and from the net revenues of the City's water system (the "Master Ordinance"); and

WHEREAS, the Council enacted Ordinance No. 4322 on September 20, 2004 amending Ordinance No. 4270 and authorizing the issuance of Water Revenue and Refunding Bonds, Series 2004B (the "2004B Bonds" and together with the 1997 Bonds and the 2004 Bonds, the "Outstanding Bonds"), payable on a parity with the 1997 Bonds and the 2004 Bonds and from the net revenues of the City's water system; and

WHEREAS, Section 10 of the Master Ordinance provides for the issuance of Additional Bonds on a parity with the Outstanding Bonds secured by an equal charge and lien on the Net Revenues of the City's water system; and

WHEREAS, on September 12, 2005, the City adopted Resolution No. 3829 (the "60-Day Resolution") authorizing the issuance of water revenue bonds in an amount not exceeding \$15,000,000; and

WHEREAS, on September 22, 2005, the City published a Notice of Water Revenue Bond Authorization (the "Notice") in *The Oregonian*, a newspaper of general circulation within the City. Subject to the provisions of Oregon Revised Statutes ("ORS") Section 288.815 (3), the City may not sell water revenue bonds authorized under ORS 288.805 to 288.945 (the "Uniform Revenue Bond Act"), until at least sixty (60) days following publication of the Notice; and

WHEREAS, more than sixty (60) days have elapsed since the publication of the Notice and the City has determined that no petitions have been received by electors of the City; and

WHEREAS, the City finds and determines that it is in the best interest of the City and Bondowners to approve this Ordinance as authorized by the Master Ordinance, without the consent of any Bondowners, to authorize the Bonds of any Series to be issued under the Master Ordinance and, in connection therewith, specify and determine the matters and things relative to the issuance of such Bonds; and

WHEREAS, the City determines that it is financially feasible for the City and in the City's best interest to provide funds to:

(A) finance the costs of additions, replacements, expansions and/or improvements to the City's water system, and the acquisition of all real and personal property necessary, useful or convenient thereto;

(B) finance the City's share of Joint Water Commission capital expansion projects, including, but not limited to:

- (i) constructing and equipping the Second Fernhill Water Reservoir and pipeline;
- (ii) improvements to the Near Term Water Treatment Plant;
- (iii) constructing and equipping the Northside Transmission Line Phase III which connects the new reservoir and water treatment plant improvements to the existing Northside Transmission Line;
- (iv) constructing and equipping the Raw Water Pipeline from Scoggins Reservoir to the Water Treatment Plant; and

(C) finance other projects that the City or the Joint Water Commission may find necessary; and

The above projects, together with the funding of a debt service reserve account and paying related bond issuance costs are collectively referred to herein as the "Project" and shall be financed with not more than \$15,000,000 of the proceeds of the proposed revenue bonds.

Now, Therefore,

THE CITY COUNCIL OF THE CITY OF BEAVERTON, OREGON ORDAINS as follows:

#### **SECTION A. BONDS AUTHORIZED**

The City hereby authorizes the issuance, sale, execution and delivery of Water Revenue Bonds (the "Bonds"), in one or more series, in an aggregate principal amount not exceeding \$15,000,000 and in an amount sufficient to finance the Project and the costs incident to the authorization, sale, issuance and delivery of the Bonds, including without limitation the cost of any bond ratings, municipal bond insurance or Reserve Credit Facility. The Bonds will qualify as Additional Bonds (the "Additional Bonds") under Section 10 of the Master Ordinance and shall be issued upon such financial terms and covenants as may be approved by the Director or his designee (the "Authorized Representative") as provided in Section M hereof.

Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Master Ordinance.

#### **SECTION B. SECURITY**

The Bonds are not general obligations of the City and are not payable from any taxes levied by the City. In accordance with Section 2 E of the Master Ordinance, the City pledges to the payment of the Bonds on an equal and ratable basis with the Outstanding Bonds and any Additional Bonds all of the City's right, title and interest in the following:



- (1) the Net Revenues;
- (2) the moneys and investments (including investment earnings thereon) on deposit in the Debt Service Fund and the Reserve Account, including without limitation the City's right, title and interest in any Reserve Credit Facility (and any moneys drawn or paid thereunder) given with respect to meeting the Reserve Requirement on a particular Series of Bonds;
- (3) any Credit Facility other than a Reserve Credit Facility given as security for the payment of any amounts owing on any Bonds (and any moneys drawn or paid thereunder); provided that such Credit Facility secures only those Bonds for which it was given; and
- (4) such other properties and assets as may be hereafter pledged to the payment of Bonds pursuant to any Supplemental Ordinance or which may be delivered, pledged, mortgaged or assigned by any person as security for Bonds.

The Bonds issued in accordance with Section 10 of the Master Ordinance shall have a lien on the Security that is equal to the lien of the Bonds issued in accordance with the Master Ordinance or any Supplemental Ordinance.

#### **SECTION C. FINDINGS OF FACTS AND LAW**

ORS 288.815(7) requires that a notice describing the purposes for which the bonds described in the 60-Day Resolution are sold shall be published by the City in at least one newspaper of general circulation within the City and in the same manner as are other public notices of the City. Section 2. of the 60-Day Resolution adopted by the City entitled, "Notice; Procedure" also required the publication of the Notice in both the *Valley Times* and *The Oregonian*, newspapers of general circulation within the City. The City has determined that the Notice was published in *The Oregonian*, but the Notice inadvertently was not published by the *Valley Times*.

The City has reviewed the estimated circulation statistics of both newspapers. As of September 2005, *The Oregonian* was circulated to a daily average of 78,506 households in Washington County, and *The Valley Times* was circulated to a daily average of 8,778 households. The City has a population of approximately 83,079. Distribution of *The Oregonian* reaches a substantial portion of the City's residents, and the City has determined that the intent of the direction in the 60-Day Resolution to reach a broad readership by publishing in two newspapers was substantially complied with and meets the requirements of state law. Based on the broader circulation of *The Oregonian* and based on the fact that ORS Section 288.815(7) requires only one publication, the City has concluded that the publication of the Notice in *The Oregonian* complies with the requirement of the Uniform Revenue Bond Act.

Therefore, the City hereby revokes only the portion of Section 2. of the 60-Day Resolution that required the Notice to be published by the *Valley Times* and hereby concludes that the publication in *The Oregonian* is sufficient to satisfy the requirements of ORS 288.815(7). The remaining provisions of the 60-Day Resolution shall remain in full force and effect.

#### **SECTION D. ADDITIONAL BONDS**

As set forth in Section 10 of the Master Ordinance, the conditions for issuing Additional Bonds will be met prior to the issuance of the Bonds.

#### **SECTION E. RATE COVENANT**

The City covenants and agrees that it shall impose and collect such System fees, rates and charges to meet the covenants as set forth more fully in Section 9 of the Master Ordinance, including without limitation, any amounts owed to any Credit Provider in connection with the Bonds.

#### **SECTION F. DEPOSITS TO THE RESERVE ACCOUNT**

The City shall make deposits from Net Revenues or proceeds of the Bonds or purchase a Reserve Credit Facility for the Reserve Account in the amount required as provided in Section 10 A (3) of the Master Ordinance. The deposit to the Reserve Account made at closing of the Bonds shall be sufficient to bring the balance in the Reserve Account equal to the Reserve Requirement for all Outstanding Bonds, including the Bonds.

#### **SECTION G. FORM AND EXECUTION OF BONDS**

The Bonds shall be substantially in the form as approved by the City and Bond Counsel. The Bonds may be printed or typewritten and may be issued as one or more temporary Bonds, which shall be exchangeable for definitive Bonds when definitive Bonds are available.

The Bonds shall be executed by the manual or facsimile signature of the Mayor and attested to by the manual or facsimile signature of the City Recorder of the City. Additionally, the Registrar shall authenticate all Bonds to be delivered at closing.

#### **SECTION H. BOOK-ENTRY SYSTEM**

The Bonds shall be initially issued as a book-entry only security issue pursuant to Section 3 of the Master Ordinance.

#### **SECTION I. AUTHENTICATION, REGISTRATION, EXCHANGE AND TRANSFER**

The provisions of Section 5 of the Master Ordinance shall apply to the Bonds.

#### **SECTION J. NOTICE OF REDEMPTION**

The provisions of Section 4 of the Master Ordinance shall apply to the Bonds.

#### **SECTION K. DEPOSIT OF FUNDS**

The provisions of Section 6 of the Master Ordinance shall apply to the Bonds and as may be directed by the Authorized Representative pursuant to Section N hereof.

#### **SECTION L. TAX-EXEMPT STATUS**

The City covenants to use the proceeds of the Bonds, and the facilities financed with the Bonds, and to otherwise comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), so that the interest on the Bonds will not be includable in gross income of the Owners for federal income tax purposes. The City specifically covenants:

1. to comply with the "arbitrage" provisions of Section 148 of the Code, and to pay any rebates to the United States on the gross proceeds of the Bonds;

2. to yield restrict and pay any rebates due to the United States on any unexpended proceeds of the Bonds;

3. to operate the facilities financed with the proceeds of the Bonds so that the Bonds are not “private activity bonds” under Section 141 of the Code; and

4. to comply with all reporting requirements.

The Authorized Representative may enter into covenants on behalf of the City to protect the tax-exempt status of the Bonds.

#### **SECTION M. ESTABLISHMENT OF RESPONSIBILITIES AND TERMS OF BONDS**

The Authorized Representative is hereby authorized, on behalf of the City and without further action of the City Council, subject to the limits of the Master Ordinance, to:

1. establish the dated date, the aggregate principal amount, principal maturities, interest rates, payment dates, redemption terms, and other terms for the Bonds;

2. establish the date for a public competitive sale of the Bonds and approve the final form of and cause an Official Notice of Bond Sale (the “Notice of Bond Sale”), substantially in the form as approved by the Authorized Representative, or a summary thereof, to be published electronically, award the successful bid or reject the bids for the Bonds as required pursuant to ORS 287.022 and 288.805 to 288.945, and as directed in Section N hereof, or if the Authorized Representative determines to sell the Bonds pursuant to a negotiated sale, to make arrangements for a negotiated sale of the Bonds and approve, execute and deliver a bond purchase agreement in connection therewith;

3. appoint a registrar and paying agent for the Bonds;

4. take such actions as are necessary to qualify the Bonds for the book-entry only system of The Depository Trust Company;

5. approve, execute and deliver a Continuing Disclosure Certificate pursuant to SEC Rule 15c2-12, as amended (17 CFR Part 240, § 240.15c2-12);

6. approve of and authorize the distribution of preliminary and final official statements for the Bonds and the execution of the final official statement;

7. obtain ratings on the Bonds if necessary;

8. determine the need for municipal bond insurance or a Reserve Credit Facility for the Bonds, and if purchased, direct expenditure of Bond proceeds to pay any bond insurance or Reserve Credit Facility premium and execute and deliver any insurance agreements, certificates, or related documents or agreements that are reasonably required by the Bond Insurer;

9. approve, execute and deliver the Bond closing documents and certificates;

10. enter into covenants regarding the use of the proceeds of the Bonds and the projects financed or refinanced with the proceeds of the Bonds, to maintain the tax-exempt status of the Bonds;

11. under Section 265(b) of the Code, designate all or any portion of the Bonds as “qualified tax-exempt obligations” under Section 265(b) of the Code, if determined by the Authorized Representative to be in the best interest of the City and to the extent permitted under the Code; and

12. execute and deliver a certificate specifying the action taken by the Authorized Representative pursuant to this Section M and to execute and deliver any other certificates, documents or agreements that are reasonably required to issue, sell and deliver the Bonds in accordance with this Ordinance.

#### **SECTION N. PROCEDURES FOR SALE OF THE BONDS**

If the Authorized Representative determines that the sale of the Bonds shall be a competitive sale, the Authorized Representative shall cause the Notice of Bond Sale, or a summary thereof, to be published electronically on the Internet prior to the sale date stated in the Notice of Bond Sale, as provided by ORS 288.885(2)(d). For a competitive sale, bids to purchase the Bonds will be received and reviewed on the date specified by the Authorized Representative in the Notice of Bond Sale or upon such later date determined by the Authorized Representative if the sale is postponed based on market or other conditions. The Authorized Representative is authorized, on behalf of the City, to accept or reject the bids for the Bonds as required pursuant to ORS 288.915. The Authorized Representative may postpone the sale of the Bonds to a later date, cancel the sale based upon market conditions or enter into a negotiated sale of the Bonds, and if it is determined by the Authorized Representative to sell the Bonds pursuant to a negotiated sale, the Authorized Representative is authorized to approve, execute and deliver a bond purchase agreement in connection therewith.

#### **SECTION O. CONTINUING DISCLOSURE.**

The City shall undertake in a Continuing Disclosure Certificate for the benefit of registered Bondowners to provide to each Nationally Recognized Municipal Securities Information Repository (“NRMSIRs”), and if and when one is established, the State Information Depository (“SID”), on an annual basis on or before 270 days after the end of each fiscal year, commencing with the fiscal year ending June 30, 2006, the information required pursuant to paragraph (b)(5)(i)(A),(B) and (D) of the Securities and Exchange Commission Rule 15c2-12 (17 C.F.R. § 240.15c2-12) (the “Rule”). In addition, the City will undertake for the benefit of the registered Bondowners to provide in a timely manner to the NRMSIRs or to the Municipal Securities Rulemaking Board (“MSRB”) notices of certain material events required to be delivered pursuant to paragraph (b)(5)(i)(C) of the Rule.

#### **SECTION P. DEFEASANCE**

The City may defease the Bonds in accordance with Section 17 of the Master Ordinance.

#### **SECTION Q. PROVISIONS RELATING TO BOND INSURANCE**

“Bond Insurer” means the provider of a Bond Insurance Policy. “Bond Insurance Policy” means a municipal bond insurance policy insuring the payment of principal of and interest on all or a portion of the Bonds. The provisions of this Section Q shall apply to the Bond Insurer in the event and to the extent provided in an Authorized Representative’s closing certificate with respect to the Bonds insured by such Bond Insurer, so long as (i) its Bond Insurance Policy is in effect, (ii) the Bond Insurer has not asserted that its Bond Insurance Policy is not in effect, (iii) the Bond Insurer is not in default thereunder, (iv) the Bond Insurer is not insolvent, and (v) the Bond Insurer has not waived any

such rights; provided, that, notwithstanding the foregoing, such rights shall continue with respect to amounts previously paid and due and owing the Bond Insurer.

1. Any amendment to the Master Ordinance requiring the consent of Owners of the Bonds or the portion thereof secured by a Bond Insurance Policy (the “Insured Bonds”) shall also require the prior written consent of the Bond Insurer with respect to such Insured Bonds.

2. Any amendment not requiring the consent of Owners of the Insured Bonds shall require the prior written consent of the Bond Insurer with respect to such Insured Bonds if its rights shall be materially and adversely affected by such amendment.

3. The prior written consent of the Bond Insurer with respect to the Insured Bonds shall be a condition precedent to the deposit by the City of any Reserve Credit Facility in lieu of a cash deposit into the Reserve Account relating to such Insured Bonds, which consent shall not be unreasonably withheld unless the Bond Insurer is providing a Reserve Credit Facility in connection with the Bonds.

4. For purposes of Section 14 of the Master Ordinance (regarding defaults and remedies), if an Event of Default shall have occurred and be continuing, the Bond Insurer with respect to the Insured Bonds shall be deemed to be the Owner of such Insured Bonds in connection with any consent or direction, appointment, request or waiver to be provided thereunder.

5. The Bond Insurer with respect to the Insured Bonds shall have the right to institute any suit, action or proceeding at law or in equity under the same terms as an Owner of such Insured Bonds in accordance with the Master Ordinance.

6. The Bond Insurer shall, to the extent it makes any payment of principal of or interest on the Insured Bonds it insures, become subrogated to the rights of the recipients of such payments in accordance with the terms of its Bond Insurance Policy.

7. Principal and/or interest paid by a Bond Insurer under its Bond Insurance Policy shall not be deemed paid for purposes of the Master Ordinance, and the Insured Bonds with respect to which such payments were made shall remain Outstanding and continue to be due and owing until paid by the City in accordance with the Master Ordinance.

8. In the event of any defeasance of the Insured Bonds, the City shall provide the applicable Bond Insurer with copies of all documents as required to be delivered to the Registrar under the Master Ordinance and any Supplemental Ordinances thereto.

9. The City shall not discharge the Master Ordinance unless all amounts due or to become due to the Bond Insurer have been paid in full or duly provided for.

## **SECTION R. NOTICES TO THE BOND INSURER; PAYMENT PROCEDURES**

1. The City shall send or cause to be sent to the Bond Insurer copies of notices required to be sent to Bondowners or others in connection with the Bonds pursuant to the Master Ordinance.

2. The City shall observe and perform any payment procedures under the Bond Insurance Policy required by the Bond Insurer as a condition to the issuance and delivery of such Bond Insurer’s Bond Insurance Policy.

**SECTION S. DESIGNATIONS**

Orrick, Herrington & Sutcliffe LLP, is designated as bond counsel to the City for the issuance of the Bonds; Regional Financial Advisors, Inc. is designated as Financial Advisor for the Bonds; and The Bank of New York, N.A. is designated as Paying Agent and Registrar for the Bonds.

**SECTION T. ORDINANCE TO CONSTITUTE CONTRACT**

In consideration of the purchase and acceptance of any or all of the Bonds by those who shall own the Bonds from time to time (the "Owners"), the provisions of this Ordinance shall be part of the contract of the City with the Owners and shall be deemed to be and shall constitute a contract between the City and the Owners. The covenants, pledges, representations and warranties contained in this Ordinance or in the closing documents executed in connection with the Bonds, including without limitation the City's covenants and pledges contained in Section B and E hereof, and the other covenants and agreements herein set forth to be performed by or on behalf of the City shall be contracts for the equal benefit, protection and security of the Owners, all of which shall be of equal rank without preference, priority or distinction of any of such Bonds over any other thereof, except as expressly provided in or pursuant to this Ordinance.

**SECTION U. EMERGENCY**

The Council finds that the City must proceed immediately with the authorization of the Bonds to obtain favorable interest rates on the Bonds. The Council declares an emergency affecting the public welfare, and this Ordinance shall take effect immediately upon enactment.

First reading this 10th day of April, 2006.

Second reading this 17th day of April, 2006.

Approved by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2006.

Attest:

Approved:

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mayor

## AGENDA BILL

Beaverton City Council  
Beaverton, Oregon

**SUBJECT:** A Resolution Authorizing the  
Issuance of Water Revenue  
Bonds in One or More Series in  
an Aggregate Principal Amount  
Not Exceeding \$15,000,000

**FOR AGENDA OF:** 09/12/05 **BILL NO:** 05158

**Mayor's Approval:** *Rah Drake*

**DEPARTMENT OF ORIGIN:** Finance *RH O'Leary*

**DATE SUBMITTED:** 09/06/05

**CLEARANCES:** City Attorney *MS*  
Engineering *TPC*

**PROCEEDING:** Consent Agenda

**EXHIBITS:** Resolution  
Notice of Water Revenue Bond  
Authorization

### BUDGET IMPACT

EXPENDITURE REQUIRED \$-0-	AMOUNT BUDGETED \$-0-	APPROPRIATION REQUIRED \$-0-
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### HISTORICAL PERSPECTIVE:

The City currently has three water revenue bond issues outstanding as of September 1, 2005 as follows:

- The Water Revenue Bond Series -1997 was originally issued in the amount of \$9,895,000 and was partially refunded by the Water Refunding Bond Series 2004B. The 1997 issue has \$885,000 in remaining outstanding bonds with the last debt service occurring on June 1, 2007.
- The Water Revenue and Refunding Bond Series 2004A was originally issued in the amount of \$10,375,000. This bond issue refunded all of the City's General Obligation Water Refunding Bonds, Series 1992, the callable portion of the City's Water Revenue Bonds, Series 1994, and provided \$3 million in new bond funds. The 2004A issue has \$8,670,000 in remaining outstanding bonds with the last debt service occurring on April 1, 2016.
- The Water Refunding Bond Series 2004B was originally issued in the amount of \$10,280,000. This bond issue refunded the remaining Water Revenue Bonds, Series 1994 that were not previously refunded by the City's Water Revenue and Refunding Bonds, Series 2004A, and advance refunded the callable portion of the City's outstanding Water Revenue Bonds, Series 1997. The 2004B issue has \$9,515,000 in remaining outstanding bonds with the last debt service occurring on July 1, 2017.

The Water Fund's annual debt service has averaged \$3.0 million since the issuance of the 1997 water revenue bonds. Beginning with FY 2007-08, the Water Fund's annual debt service will decrease by approximately \$1.0 million.

The drop in debt service will permit the City to issue additional water revenue bonds, with the concept that the additional annual debt service on the new bonds would return the Water Fund's total annual debt service back to the \$3.0 million average. In today's interest rate market, the \$1.0 million in available debt service would correspond to a bond issue sized between \$12 million to \$15 million.

The proceeds from the additional debt would be used for constructing water system projects in and outside the City. Some of the projects may be within the City limits to increase the capacity of distribution mains, transmission lines, storage reservoirs and ASR facilities. The majority of the projects, though, will be comprised of the City's share of the JWC's (Joint Water Commission) capital expansion projects. The JWC projects include:

- The Fern Hill 20 Million Gallon Finished Water Reservoir No. 2, which will bring the total finished water capacity in the treatment plant's reservoirs to 40 million gallons.
- The Near Term Plant Improvements designed to increase the water treatment plant production capacity from its current 60 MGD (million gallons per day) to 75 MGD.
- The Northside Transmission Line, Phase III, which connects the new reservoir and water treatment plant improvements to the existing Northside Transmission Line.
- The Raw Water Pipeline, extending from Scoggins Reservoir to the JWC Water Treatment Plant and to the nearby Tualatin River Spring Hill Pumping Plant. The Raw Water Pipeline will be designed to have the dual function of carrying raw water from the dam to the JWC treatment plant by gravity, as well as allow winter-time pumping of river water with the Spring Hill Pumping Plant back into Scoggins Reservoir to ensure annual filling of the proposed expanded Scoggins Dam and Reservoir.
- Tualatin River Basin Water Supply Project. This project will most likely be a 40-foot raise of Scoggins Dam to double the volume of water in Hagg Lake. An Environmental Impact Study is expected to be completed and released for public comment in early 2006.

As the JWC's construction projects will be phased in, staff is recommending that the bond issue be authorized up to \$15,000,000 and issued in one or more series.

**INFORMATION FOR CONSIDERATION:**

The proposed new water revenue bonds are not general obligations of the City, and they are not a charge upon the property tax revenues of the City. The principal and interest on the Water Bonds are payable solely from the un-obligated net revenues of the City's Water System.

Attached is the Water Revenue Bond Resolution and Notice of Water Revenue Bond Authorization. They were prepared by the City's Bond Counsel, Mr. Doug Goe, of Orrick, Herrington & Sutcliffe, LLP. The Notice of Authorization will be published in the Valley Times and the Oregonian. The Notice of Authorization states that Beaverton voters may file a petition within 60 days of the notice's publication date to have the question of whether to issue the bonds referred to a vote. For the petition to be valid, it must be signed by at least five percent (5%) of the City's registered voters.

The approval of this agenda bill is the first in a series of steps needed to initiate and complete the water revenue bond issue. A companion Agenda Bill authorizing the re-appointment of bond counsel and financial advisor services is also included on tonight's Council Agenda.

**RECOMMENDED ACTION:**

Council approve the attached resolution authorizing the issuance of up to \$15 Million in additional Water Revenue Bonds (in one or more series) and the publication of the Notice of Water Revenue Bond Authorization.



**RESOLUTION NO. 3829**

**A RESOLUTION AUTHORIZING THE ISSUANCE OF WATER REVENUE BONDS IN ONE OR MORE SERIES IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING \$15,000,000 AND PROVIDING FOR PUBLICATION OF A NOTICE OF WATER REVENUE BOND AUTHORIZATION; DECLARING OFFICIAL INTENT TO REIMBURSE EXPENDITURES, AND RELATED MATTERS.**

WHEREAS, the City Council (the "Council") of the City of Beaverton, Oregon (the "City"), a municipal corporation of the State of Oregon, finds:

1. That it is financially feasible for the City and that it is in the City's best interest to provide funds to:

(A) finance the costs of additions, replacements, expansions and/or improvements to the City's water system, and the acquisition of all real and personal property necessary, useful or convenient thereto;

(B) finance the City's share of Joint Water Commission capital expansion projects, including, but not limited to:

- (i) constructing and equipping the Second Fernhill Water Reservoir and pipeline;
- (ii) improvements to the Near Term Water Treatment Plant;
- (iii) constructing and equipping the Northside Transmission Line Phase III which connects the new reservoir and water treatment plant improvements to the existing Northside Transmission Line;
- (iv) constructing and equipping the Raw Water Pipeline from Scoggins Reservoir to the Water Treatment Plant; and

(C) finance other projects that the City and the Joint Water Commission may find necessary.

The above projects, together with the funding of debt service reserve funds, if necessary, and paying related bond issuance costs are collectively referred to herein as the "Project" and are estimated to be financed with not more than \$15,000,000 of the proceeds of the proposed revenue bonds;

2. The City is authorized to finance the Project by issuing revenue bonds pursuant to the authority of Oregon Revised Statutes Sections 288.805 to 288.945, commonly known as the Uniform Revenue Bond Act (the "Uniform Revenue Bond Act");

3. The bonds will not be general obligations of the City, nor a charge upon its property tax revenues, but will be payable solely from the revenues that the City pledges to payment of the bonds;

4. The City shall prepare a plan showing that the estimated water revenues are sufficient to pay the estimated debt to be incurred by the City under the revenue bond issue authorized by this Resolution;

5. The Council anticipates incurring expenditures ("Expenditures") to finance the costs of the Project and wishes to declare its official intent to reimburse itself for the Expenditures made on the Project from the proceeds of the revenue bonds;

6. On June 10, 1997, the City issued its Water Revenue Bonds, Series 1997, in an aggregate principal amount of \$9,865,000 (the "Series 1997 Bonds") pursuant to Ordinance No. 3977 (Amended and Restated Master Water Bond Ordinance) enacted by the City Council of the City on April 14, 1997 (the "1997 Master Ordinance"). Section 10 of the 1997 Master Ordinance provides for the issuance of Additional Bonds on a parity with the Series 1997 Bonds secured by an equal charge and lien on the net revenues of the City's water system;

7. On January 6, 2004, the City issued its Water Revenue and Refunding Bonds, Series 2004, in an aggregate principal amount of \$10,375,000 (the "Series 2004 Bonds") pursuant to Ordinance No. 4270 (Amended and Restated Master Water Revenue Bond Ordinance) enacted by the City Council of the City on October 13, 2003 (the "2003 Master Ordinance"), as supplemented. Section 10 of the 2003 Master Ordinance provides for the issuance of Additional Bonds on a parity with the Series 1997 Bonds and the Series 2004 Bonds secured by an equal charge and lien on the net revenues of the City's water system; and

8. On October 5, 2004, the City issued its Water Revenue and Refunding Bonds, Series 2004B, in an aggregate principal amount of \$10,280,000 (the "Series 2004B Bonds") pursuant to the 2003 Master Ordinance, as supplemented. A portion of the proceeds of the Series 2004B Bonds funded an escrow deposit account to advance refund the callable portion of the Series 1997 Bonds. Section 10 of the 2003 Master Ordinance provides for the issuance of Additional Bonds on a parity with the outstanding portion of the Series 1997 Bonds, the Series 2004 Bonds and the Series 2004B Bonds secured by an equal charge and lien on the net revenues of the City's water system.

Now, therefore,

Be It Resolved by the Council of the City of Beaverton, Oregon:

## **SECTION 1: WATER REVENUE BONDS AUTHORIZED**

a. The Council hereby authorizes the issuance of Water Revenue Bonds (the "Bonds") in one or more series in an aggregate principal amount not exceeding \$15,000,000 to finance the Project.

b. Upon completion of the actions stated in Section 3 below pursuant to ORS 288.815, the Mayor, the Finance Director, Assistant Finance Director, or their designee (each an "Authorized Representative") are authorized to determine the date of the Bonds and any other terms, conditions or covenants regarding the Bonds, the Project or the revenues that are necessary or desirable to effect the sale of the Bonds including, without limitation, authorizing the preparation and distribution of preliminary and final official statements. The Authorized Representative is authorized to select a Paying Agent and Registrar for the Bonds.

## **SECTION 2: NOTICE; PROCEDURE**

a. None of the Bonds may be sold, and no purchase agreement for such amount of Bonds may be executed, for at least 60 days following publication of the Notice of Water Revenue Bond

Authorization, such notice being in substantially the form attached to this Resolution as Exhibit "A" (the "Notice"). The Notice shall specify the last date on which petitions may be submitted, and shall be published in the *Valley Times*, in Beaverton, Oregon, and in *The Oregonian*, newspapers of general circulation within the boundaries of the City, in the same manner as are other public notices of the City.

b. If petitions for an election, containing valid signatures of not less than five percent (5%) of the City's qualified electors, are received within the time indicated in the Notice, the question of issuing such Bonds in an aggregate principal amount not to exceed \$15,000,000 shall be referred to a vote at the next legally available election date. If such petitions are received, no such amount of Bonds may be sold until this Resolution and the question of whether to issue such Bonds is approved by a majority of the electors living within the boundaries of the City who vote on that question. Any such petitions will be subject to ORS 288.815.

### SECTION 3: DECLARING INTENT TO REIMBURSE

The City hereby declares its official intent to reimburse itself with Bond proceeds for any of the Expenditures incurred by it prior to the issuance of the Bonds.

### SECTION 4: BONDS PAYABLE SOLELY FROM REVENUES

The Bonds shall not be general obligations of the City, nor a charge upon its tax revenues, but shall be payable solely from the revenues that the City pledges to payment of the Bonds pursuant to ORS 288.825(1) and the resolution or ordinance to be adopted by the City authorizing the issuance, sale and delivery of the Bonds.

The Bonds shall be issued on a parity with the outstanding portion of the Series 1997 Bonds, the Series 2004 Bonds and the Series 2004B Bonds secured by an equal charge and lien on the net revenues of the City's water system.

### SECTION 5: CONFIRMATION OF BOND COUNSEL

The City's bond counsel, Orrick, Herrington & Sutcliffe LLP is hereby confirmed as bond counsel for the Bonds.

**SECTION 6: EFFECTIVE DATE OF RESOLUTION.** This Resolution shall take effect immediately upon its adoption by the City Council and execution by the Mayor.

Adopted by the Council this 12th day of September 2005.

Approved by the Mayor this \_\_\_\_\_ day of September 2005.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

## EXHIBIT "A"

### NOTICE OF WATER REVENUE BOND AUTHORIZATION

NOTICE IS HEREBY GIVEN that the City Council (the "City Council") of the City of Beaverton, Oregon (the "City"), adopted a Resolution on September 12, 2005, authorizing the issuance of water revenue bonds. The bonds will be issued to provide funds to: (A) finance the costs of additions, replacements, expansions and/or improvements to the City's water system, and the acquisition of all real and personal property necessary, useful or convenient thereto; (B) finance the City's share of Joint Water Commission capital expansion projects, including, but not limited to: (i) constructing and equipping the Second Fernhill Water Reservoir and pipeline; (ii) improvements to the Near Term Water Treatment Plant; (iii) constructing and equipping the Northside Transmission Line Phase III which connects the new reservoir and water treatment plant improvements to the existing Northside Transmission Line; (v) constructing and equipping the Raw Water Pipeline from Scoggins Reservoir to the Water Treatment Plant; and (C) finance other projects that the City and the Joint Water Commission may find necessary. The above projects, together with funding debt service reserve funds, if necessary, and paying related bond issuance costs are collectively referred to as the "Project."

The City Council shall establish by subsequent ordinance or resolution all terms, conditions and covenants regarding the bonds and the revenues that are necessary or desirable to effect the sale of the bonds.

The City estimates that the bonds will be issued in one or more series in an aggregate principal amount not exceeding \$15,000,000. The bonds will not be general obligations of the City, nor a charge upon its property tax revenues, but will be payable solely from the revenues that the City pledges to the payment of the bonds.

If written petitions, signed by not less than five percent (5%) of the City's qualified electors, are filed at the Office of the City Recorder on or before November 22, 2005 (the 61st day after the date of publication of the notice), the question of issuing water revenue bonds in an aggregate principal amount not exceeding \$15,000,000 shall be referred to a vote at the next legally available election date. Any such petition shall be subject to ORS 288.815.

The Office of the City Recorder is located at Beaverton City Hall, 4755 S.W. Griffith Drive, Beaverton, Oregon 97076. Information on procedures for filing petitions may also be obtained at such address or by telephone at (503) 526-2241.

The Resolution authorizing the bonds is available for inspection at the Office of the City Recorder.

The bonds will be issued and sold under the Uniform Revenue Bond Act (ORS 288.805 to 288.945); this Notice is published pursuant to ORS 288.815(6).

BY RESOLUTION ADOPTED BY THE CITY COUNCIL ON SEPTEMBER 12, 2005.

SUE NELSON,  
CITY RECORDER

Published September 22, 2005 in *The Oregonian* and in the *Valley Times*.

Exhibit "A" - Resolution No. 3829  
DOCSPNW1:55702.3  
42959-1 SCG

Agenda Bill No. 05158

14

**AGENDA BILL**  
Beaverton City Council  
Beaverton, Oregon

4/10/06



**SUBJECT:** An Ordinance Amending Chapter 5.05  
of the Beaverton Code, Regarding  
Vacant Buildings

**FOR AGENDA OF:** ~~3-20-06~~ **BILL NO:** 06050

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** Code Services 

**DATE SUBMITTED:** 03-06-06

**CLEARANCES:** City Attorney   
CDD/Building 

**PROCEEDING:** ~~First reading~~ Second Reading

**EXHIBITS:** Ordinance

**BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$0	BUDGETED \$0	REQUIRED \$0

**HISTORICAL PERSPECTIVE:**

The City frequently receives complaints about properties that are not being maintained to meet the standards of the community. These complaints commonly focus on overgrown vegetation or the accumulation of rubbish, subjects that are already covered by sections of the Beaverton Code.

Occasionally, the complaint is about an "abandoned building". The Beaverton Code does not define an abandoned building, and the standards of the community regarding how buildings like this should be maintained have never been specified.

There are closely related sections in the Beaverton Code, including section 5.05.080 *Attractive Nuisances*, and 8.03.010 *Dangerous Buildings*, but neither are adequate to address buildings that are not yet dangerous but are considered to be neighborhood nuisances. If and when a building becomes dangerous, the Abatement of Dangerous Buildings Code has provisions to address remediation by repair or removal of the building.

**INFORMATION FOR CONSIDERATION:** Many cities have ordinances that address vacant nuisance buildings, and there are many different names for them, including:

- Boarded-up Buildings (Spokane)
- Derelict Structures (Tigard)
- Neglected houses (San Jose)
- Vacant Buildings (Seattle, SeaTac)
- Vacant houses (San Jose)
- Vacant Structures (Sherwood)
- Unkempt Properties (Arlington, VA)

**Ag nda Bill No:** 06050

After reviewing many of these ordinances and definitions, “vacant buildings” was chosen as the term that best describes the type of nuisance structures this new ordinance is intended to address. The problems we experience usually are not with buildings that are “abandoned”; meaning the owner has deserted, forsaken or ceded the ownership interest; but rather with buildings that are vacant and allowed to become a nuisance because of insufficient maintenance. Because the property is vacant, the owner or landlord is not receiving rental income, so expenditures for maintenance are reduced or eliminated to cut costs. The owners may be located out-of-town, or ownership may vest in a bank or finance company that acquired the property through foreclosure. Regardless of who owns the property, the standards of the community need to be established and enforced to reduce future deterioration of the subject property, urban blight, criminal activity, reductions in property values, and safety hazards.

The proposed ordinance defines a “vacant building” and describes at what point a vacant building becomes a nuisance. It creates minimum maintenance standards for vacant properties, and holds the property owners responsible for adhering to those standards. Finally, the proposed ordinance specifies that the nuisance conditions described can be abated by the City, with the costs of such abatements billed to the property owner.

**RECOMMENDED ACTION:**

~~First reading-~~ Second reading and passage.

ORDINANCE NO. 4386

AN ORDINANCE AMENDING THE NUISANCE CODE, CHAPTER 5.05 OF THE  
BEAVERTON CODE, REGARDING VACANT BUILDINGS

WHEREAS, the City receives complaints about vacant buildings within the city limits from time to time and has identified several vacant buildings that have become a nuisance, and

WHEREAS, vacant buildings that are allowed to become a nuisance may adversely affect property values and the quality of life in neighborhoods, and

WHEREAS vacant building that are not maintained so as to reduce the appearance of vacancy and kept secure from unauthorized entry may attract vandals, trespassers and others with no legitimate interest in the neighborhood, and

WHEREAS, vacant buildings can become a threat to public safety if they are not secured from unauthorized entry and protected against weathering due to the increased potential for arson, the potential for structural deterioration and subsequent risk of premature structural collapse in the event of a fire, now, therefore,

BE IT ORDAINED BY THE CITY OF BEAVERTON,

**Section 1.** The Beaverton Code is amended in Chapter 5 by adding the following sections.

5.05.081 Vacant Buildings.

A. Definition. "Vacant building" as used herein means a building, or substantial portion thereof, that is unoccupied or has not actively been furnished and so used as a place of business or residence for more than 60 days. This includes manufactured housing and mobile homes, whether located in a mobile home park or not. A vacant building also includes any building under construction where no substantial work has taken place for more than 180 days. "Vacant building" does not include a building designed for storage, intermittent or similar types of use, if such building is secure from unauthorized entry, in good repair and does not otherwise constitute a nuisance.

B. A vacant building, including adjoining yard areas, shall be maintained free of debris, garbage, graffiti, litter, portable toilets, rodents and standing water.

C. A vacant building shall be kept secure from the unauthorized entry of persons by any effective methods. The following methods are deemed per se effective:

1. Windows and doors with intact glass or panels and functional locking mechanisms that are kept locked.
2. Exterior doors secured from the interior of the building by nailing or screwing to the doorframe at distances no greater than six inches on center.

3. Intact walls and roof structures with no openings large enough for a person to enter.

4. Openings lacking intact glass or panels that are in the basement or foundation, ground floor doors and windows, and any point of entry accessible from a porch, fire escape or other potential climbing point; providing resistance to entry equivalent to or greater than that of:

i) a solid sheet of ½” CDX plywood,

ii) cut to completely cover the opening,

iii) if possible, recessed into the opening to reduce the possibility of prying it off and if not possible to recess, then reinforced with 2 x 4 braces on the inside and outside, secured with 3/8” rounded head carriage bolts, nuts and washers; with the rounded head on the weather side; as described in the National Arson Prevention Initiative’s “Board Up” procedures,

iv) securely fastened by nails or screws no greater than twelve inches on center along each edge and within four inches of each corner, and

v) painted so as to minimize the appearance of vacancy and to provide protection from weather deterioration.

5. Openings lacking intact glass or panels; located ten feet or more above any grade, porch, fire escape or other potential climbing point; providing resistance to entry equivalent to or greater than that of:

i) a solid sheet of ½” CDX plywood,

ii) cut to completely cover the opening,

iii) recessed into the opening to reduce the possibility of prying it off, if possible,

iv) securely fastened by nails or screws no greater than twelve inches on center along each edge and within four inches of each corner, and

v) painted so as to minimize the appearance of vacancy and to provide protection from weather deterioration.

D. If windows, doors, or other openings of a vacant building are covered over with boards or panels, they must be maintained in a way that reduces the appearance of vacancy and protects the structure from weathering by painting in a color matching the rest of the structure or other reasonably equivalent protective and aesthetic measures.



E. If an address has been assigned, a vacant building shall display address numbers on the exterior of the building that are plainly visible from the street.

F. A vacant building that is not maintained according to the requirements of this section, or that has repeatedly been entered by unauthorized persons, or is allowed to be unsecured or open to entry by unauthorized persons, is declared a public nuisance and subject to abatement. Such abatement may include, without limitation,

1. Measures to secure the building against unauthorized entry.
2. Painting to reduce the appearance of vacancy and provide protection from weathering.
3. Removal of debris, garbage, graffiti, litter, portable toilets, rodents and standing water.

All costs incurred for abatement may be assessed against the owner of the property.

G. A vacant building that has repeatedly been entered by unauthorized persons, or is allowed to be unsecured or open to entry by unauthorized persons may be subject to the requirements of BC Chapter 8.03 Abatement of Building Nuisances.

H. It shall be a Class 1 Civil Infraction for any owner or person in charge of property to allow a vacant building to become a public nuisance, to fail to keep a vacant building secure from unauthorized entry by any effective methods, or to fail to maintain a vacant building according to the requirements of this section.

**Section 2.** This ordinance may be cited by the short title of, "Vacant Building Ordinance."

First reading this 20th day of March, 2006.

Passed by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor